

Town of New Windsor

Local Law No. of the year 2012

A Local Law to repeal and re-enact Chapter 300 of the Code of the Town of New Windsor, entitled "Zoning Local Law of the Town of New Windsor, New York" ("Zoning")."

Be it enacted by the Town Board of the Town of New Windsor as follows:

SECTION 1. TITLE

This local law shall be known as "A Local Law Repealing and Re-enacting the Zoning Law of the Town of New Windsor".

SECTION 2. AUTHORITY

This Local Law is enacted pursuant to the authority of Municipal Home Rule Law Section 10, the Town Law, and in accordance with the Zoning Law of the Town of New Windsor, New York - Article XV entitled "Amendments." To the extent that the provisions of this local law are in conflict with Section 278 of the Town Law, the Town Board hereby asserts its intention to supersede Section 278 pursuant to the Municipal Home Rule Law.

SECTION 3. PURPOSE AND FINDINGS

The purpose of the zoning changes herein is to implement certain recommendations of the 2009 Comprehensive Plan and to update, reorganize and re-codify the Town's Zoning Law.

The Town Board hereby incorporates and adopts the specific findings set forth under Section 300-2 as its legislative findings.

SECTION 4.

Chapter 300 of the Town Code of the Town of New Windsor is hereby repealed in its entirety and the following new chapter is hereby enacted:

ARTICLE I: TITLE AND PURPOSE

§ 300-1 Title.

A. The title of this chapter shall be "A Local Law Repealing and Re-enacting the Zoning Law of

the Town of New Windsor".

- B. This chapter shall be known and may be cited as the "Zoning Law of the Town of New Windsor, New York."

§ 300-2 Purposes.

There is hereby established a new zoning law for the Town of New Windsor, which law is set forth in the text and map that constitute this chapter. Said law is adopted for the purposes set forth in §§ 261 and 278 of the Town Law, which, in the interest of the protection and promotion of the public health, safety and welfare, shall be deemed specifically to include the following, among others:

- A. To provide adequate development standards to ensure a balanced and orderly pattern of future growth and economic stability.
- B. To ensure that future growth is coordinated with the Town's ability to provide adequate municipal services.
- C. To promote a safe and efficient circulation network which will serve the various types and intensities of pedestrian and vehicular traffic generated by future development within the Town.
- D. To protect the natural features of the Town, including but not limited to wetlands, lakes, reservoirs, streams and riverfront, from filling, erosion and pollution.
- E. To provide for the present and future residents of the Town by encouraging the development of a balanced variety and quantity of sound housing opportunities for all segments of the population.
- F. To ensure adequate land resources for housing, industry and commerce.
- G. To provide for the gradual elimination of nonconforming uses.
- H. To protect and enhance the community's appearance.
- I. To ensure the efficient and adequate provision of public facilities and services.
- J. To protect residential areas and provide privacy for families.
- K. To encourage flexibility in the design and development of land in such a way as to promote the most appropriate use of lands, to facilitate the adequate and economical provision of streets and utilities and to preserve the natural and scenic qualities of open lands.
- L. To make provisions for, in accordance with § 263 of the Town Law, as amended by Chapter 295 of the Laws of 1956 and as further amended by Chapter 742 of the Laws of 1979, the

accommodation of solar energy systems and equipment and access to sunlight necessary therefore.

ARTICLE II: ZONING DISTRICTS AND ZONING MAP

§ 300-3 Districts established.

- A. There are hereby established, and the Town of New Windsor is divided into, classes of districts listed below and their purpose described below:

Symbol	Title
R-1	Rural Residential
R-2	Open Space Residential
R-3	Suburban Residential (including two-family)
R-4	Suburban Residential (excluding two-family)
R-5	Multiple-Family Residential
NC	Neighborhood Commercial
LC	Limited Commercial
HC	Highway Commercial
OLI	Office and Light Industry
PI	Planned Industrial
AP	Airport
CL-1	Cluster
SCO	Senior Citizen Overlay
WFO	Workforce Housing Overlay
WO	Watershed Overlay
MU	Municipal Use

Rural Residential (R-1) Purpose. The purpose of the R-1 District is to protect the environmentally sensitive steep or wet areas and aquifer recharge areas of the Town and to preserve the open rural character while providing a suitable low-density environment for single family residences and limited non-residential uses.

Rural Residential (R-2) Purpose. The purpose of the R-2 District is to protect the environmentally sensitive steep or wet areas and aquifer recharge areas of the Town and to preserve the open rural character while providing a suitable low- and medium-density environment for single family residences and limited non-residential uses.

Suburban Residential (R-3) Purpose. The purpose of the R-3 District is to provide a suitable environment for 1- and 2-family residences and compatible uses in developed portions of the Town.

Suburban Residential (R-4) Purpose. The purpose of the R-4 District is to provide a suitable environment for 1-family residences and compatible uses in developed portions of the Town. Two-family and multiple-family residences are not a permitted use in the R-4 district.

Multiple Family Residential (R-5) Purpose. The purpose of the R-5 District is to provide a suitable environment for 1-family, 2-family, and multiple-family residences and compatible uses in developed portions of the Town.

Neighborhood Commercial (NC) Purpose. The purpose of the NC District is to encourage commercial uses and offices intended to serve the immediate area or neighborhood, primarily with convenience goods and services.

Limited Commercial (LC) Purpose. The purpose of the LC District is to encourage a greater range and more intensive land uses than what is permitted in the Neighborhood Commercial Zone. This is intended to include retail stores and restaurants, service establishments, professional office buildings, hotels and motels, mini warehouses, and other similar uses.

Highway Commercial (HC) Purpose. The purpose of the HC District is to encourage a full range of commercial activity along major highways.

Office & Light Industrial (OLI) Purpose. The purpose of the OLI District is to promote the establishment of cultural, educational, office and light industrial uses.

Planned Industrial (PI) Purpose. The purpose of the PI District is to encourage a full range of non-nuisance environmentally sensitive industrial activities.

Airport (AP) Purpose. The purpose of the AP and District is to promote the establishment of a well designed commercial development in close proximity and in harmony with Stewart International Airport, and to provide flexibility in such design and development in order to best utilize the lands of the airport and the surrounding properties..

Cluster (CL-1) Purpose. The purpose of the CL-1 District is to encourage the efficient use of land, accommodate reduced infrastructure while preserving a range of housing types.

Senior Citizen Overlay (SCO) Purpose. The purpose of the CO District is to address the need for housing projects located and designed to meet the special needs and habits of older people, to be known as "senior citizen projects". Such housing projects will tend to contribute to the dignity, independence and meaningful activity of older people in retirement years. Housing projects for the Town's senior citizens , if not properly located, constructed, and maintained, may be detrimental to the general welfare, health and dignity of the residents.

Watershed Protection Overlay (WO) Purpose. The purpose of the Watershed Protection Overlay District is to promote the health, safety and welfare of the community by protecting and preserving the surface and groundwater resources of the Town from any use of land or buildings which may reduce the quality of its water resources. The intent of the District is to

limit the amount of impervious surface permitted within the District in order to control non-point source discharge and pollution. Cluster development may be required at the discretion of the Planning Board.

Workforce Housing (WFO) Purpose. The purpose of the WFO District is to address the need for housing developments located and designed to meet the needs of everyday working families and citizens of the Town of New Windsor, to be known as "workforce housing developments," as such housing developments tend to contribute to the dignity and independence of people at a greater range of income levels.

Municipal Use (MU) Purpose. The purpose of the MU District is to provide flexibility for the Town in its use of Town-owned land so that the Town can provide services to residents of the Town.

- B. Protection of historical corridor district. Under the provisions of New York State General Municipal Law § 96-a, the Town of New Windsor hereby designates the following two corridors as being of special historical significance and creates a historical corridor district for zoning purposes. The Planning Board is hereby empowered to impose special conditions and restrictions for the protection, enhancement, perpetuation and use of the historical places in the two historical corridors, including regulations, special conditions and restrictions which it deems appropriate and reasonable for the control, use or appearance of private properties within public view in the historical corridor:
- (1) New Windsor Cantonment Historical Corridor. This corridor shall run from the New York State Thruway overpass on Route 207, otherwise known as "Little Britain Road," in a southeasterly direction along Routes 207 and 300, otherwise known as "Temple Hill Road," to the intersection of Route 300 and Old Temple Hill Road. The extent of the district shall be 400 feet on each side of the right-of-way line of the designated road. For proposed uses within this corridor, the Planning Board shall take into consideration visual impacts, including lighting and screening for uses within the line of site from historic resources.
 - (2) Knox Headquarters Historical Corridor. This corridor shall run from the intersection of Route 94, otherwise known as "Blooming Grove Turnpike," in an easterly direction along Forge Hill Road to the intersection of Forge Hill Road with Route 9W. The extent of the district shall be 400 feet on each side of the right-of-way line of the designated road.
- C. Establishment of Workforce Housing. The Town Board has determined that there is a need for housing developments located and designed to meet the needs of everyday working families and citizens of the Town of New Windsor, to be known as "workforce housing developments," and believes that workforce housing should be encouraged by the Town of New Windsor. Such housing developments will tend to contribute to the dignity and independence of people at a greater range of income levels. Workforce housing developments, if not properly located, constructed, and maintained, may be detrimental to

the general welfare, health and dignity of the residents. It is also deemed essential that the Town of New Windsor safeguard against the deterioration of a workforce housing development. For requirements relating to Workforce Housing, see Section 300.

- D. Senior Citizen Housing. The Town Board has determined that there is a need for housing projects located and designed to meet the special needs and habits of older people, to be known as "senior citizen projects," and believes that senior (age-restricted) housing should be encouraged by the Town of New Windsor. Such housing projects will tend to contribute to the dignity, independence and meaningful activity of older people in retirement years. Housing projects for the Town's senior citizens, if not properly located, constructed, and maintained, may be detrimental to the general welfare, health and dignity of the residents. It is also deemed essential that the Town of New Windsor safeguard against the deterioration of a senior housing project. For requirements relating to Senior Citizen Housing, see Section 300-18.
- E. Conversion of Municipal Uses. Upon the Town's transfer of title to property that, at the time of transfer, is within the Municipal Use zoning district, then the subsequent zoning district for said property will automatically convert to the same district surrounds the property, and the Town's Chief Information Technology Officer shall prepare and file an amended zoning map updated to reflect the conversion.

§ 300-4 Zoning Map.

The boundaries of said districts are hereby established as shown on the Zoning Map of the Town of New Windsor, which is hereby adopted and made a part of this chapter. A copy of said map, indicating the latest amendments, shall be kept up-to-date in the office of the Town Clerk, with the assistance of the Code Enforcement Officer and the Town's information technology office, for the use and benefit of the public.

§ 300-5 District boundaries.

In determining the boundaries of districts shown on the map, the following rules shall apply:

- A. Where district boundaries are indicated as approximately following the centerlines of streets, highways, waterways or railroad rights-of-way or such lines extended, such centerlines shall be construed to be such boundaries.
- B. Where such boundaries are indicated as approximately following the property lines of parks or other publicly owned lands, such lands shall be construed to be such boundaries.
- C. Unless otherwise shown, all district boundaries running parallel to streets shall be construed to be 200 feet back from the rights-of-way of said streets.
- D. In all cases where a district boundary divides a lot in one ownership and more than 50% of the area of such lot lies in the less restricted district, the regulations prescribed by this chapter for the less restricted district shall apply to such portion of the more restricted portion of said

lot which lies within 100 feet of such district boundary, provided that for any proposed non-residential use abutting an existing residential use, a buffer sufficient, in the Planning Board's opinion, to screen and protect the residential use is provided. For purposes of this section, the more restricted district shall be deemed that district subject to regulations which prohibit the use intended to be made of said lot or which require higher standards with respect to coverage, yards, screening, landscaping and similar requirements.

- E. In all cases where a district boundary line is located not farther than 15 feet away from a lot line of record, the entire lot shall be subject to the regulations of the district covering the majority of the lot.
- F. In all other cases where dimensions are not shown on the map, the location of boundaries shown on the map shall be determined by the use of the scale appearing thereon.
- G. Lot lines changes shall not affect or alter district boundaries.

§ 300-6 Effect of chapter; prohibited uses.

A. Following the effective date of this chapter:

- (1) No building shall be erected, moved, altered, rebuilt or enlarged, nor shall any land or building be used, designed, arranged to be used, or modified, for any purpose or in any manner except in conformity with all regulations, requirements and restrictions specified in this chapter for the district in which such building or land is located.
- (2) No yard or open space required in connection with any building or use shall be considered as providing a required open space for any other building on the same or any other lot.
- (3) No lot shall be formed from part of a lot already occupied by a building unless such building, all yards and open spaces connected therewith and the remaining lot comply with all requirements prescribed by this chapter for the district in which said lot is located. No permit shall be issued for the erection of a building on any new lot thus created unless such building and lot comply with all the provisions of this chapter.

B. Nothing contained in this chapter shall require any change in the plans, construction or designated use of a building complying with regulations in force prior to this chapter, if either of the following is found to exist:

- (1) A building permit or certificate of occupancy shall have been duly issued prior to the date of first publication of notice of the public hearing on this chapter.
- (2) The entire building shall have been completed in accordance with such plans as have been filed with the Town within one year from the effective date of this chapter.

C. Any use not permitted by this chapter shall be deemed to be prohibited. Any list of prohibited

uses contained in any section of this chapter shall not be deemed to be an exhaustive list but has been included for the purposes of clarity and emphasis and to illustrate, by example, some of the uses frequently proposed that are deemed undesirable and incompatible and are thus prohibited.

ARTICLE III: USE REGULATIONS

§ 300-7 Use regulations established.

The general regulations affecting the use of buildings, structures and land for each of the districts established by Article II are hereby established and set forth in this article.

§ 300-8 Table incorporated by reference.

The accompanying table titled the "Town of New Windsor Table of Use/Bulk Regulations" shall be deemed part of this section and is referred to herein as the "Table of Use/Bulk Regulations."

ARTICLE IV: BULK REGULATIONS

§ 300-9 Bulk regulations established.

The general regulations affecting the bulk and arrangement of buildings and structures and the density of residential development and of materials and equipment occupying land in connection with non-building uses thereof for each of the districts established by Article II are hereby established and set forth in this article.

§ 300-10 Table incorporated by reference.

The accompanying table titled the "Town of New Windsor Table of Use/Bulk Regulations" shall be deemed a part of this section and is referred to herein as the "Table of Use/Bulk Regulations." A copy of the Table of Use/Bulk Regulations, indicating the latest amendments, shall be kept up-to-date in the office of the Town Clerk, with the assistance of the Code Enforcement Officer and the Town's information technology office, for the use and benefit of the public.

ARTICLE V: SUPPLEMENTARY REGULATIONS

§ 300-11 Yards.

A. Accessory buildings.

(1) An accessory building may be located in any required side or rear yard, provided that:

(a) Such building shall not exceed 15 feet in height or the maximum height of the

principal building, whichever is less.

- (b) Such building shall be set back at least 5 feet from any lot line.
- (2) An accessory building on that portion of a lot not included in any required yard shall not exceed the height of the principal building.
- (3) No accessory building shall project nearer to the street on which the principal building fronts than such principal building. Should topographic conditions be such that practical difficulties would be caused by this requirement with respect to the location of garages, the Planning Board may authorize the erection of such garages under the following conditions:
 - (a) If the natural slope is from 10% to 20% within 25 feet of the street line, the Board may permit a garage not closer than 20 feet to the street line.
 - (b) Where such slope exceeds 20%, a garage may be permitted not closer than 10 feet to the street line.

B. Corner lots.

- (1) Obstruction of vision at street intersections. At all street intersections in all districts, no obstructions of vision exceeding 30 inches in height above curb level shall be erected or maintained on any lot within the triangle formed by the street lines of such lot and a line drawn between points along such street lines 30 feet distant from their point of intersection.
- (2) Rear and side yards. On a corner lot, front yards are required on both street frontages, and one yard other than the front yards shall be deemed to be a rear yard and the other or others side yards.

C. Exceptions to yard requirements.

- (1) Permitted obstructions.
 - (a) Cornices or cantilevered roofs may project not more than three feet into a required yard. Belt courses, windowsills and other ornamental features may project not more than six inches into a required yard.
 - (b) Bay or bow windows cannot project more than 30 inches into a required yard.
 - (c) Fences or walls not over six feet in height may be erected anywhere on the lot except as follows: between the principal building and the street or streets on which it fronts, the maximum permissible height shall be four feet except as set forth in Subsection B, Corner lots. Fences or walls in excess of six feet shall be permitted where specifically required by the Town Planning Board for screening or other related

purposes, as part of a site plan approval.

- (d) Fences or walls with a height in excess of six feet shall conform to the requirements set forth herein for buildings, unless such fence or wall are required for screening or other related purpose as part of a site plan approval granted by the Town Planning Board.
 - (e) Paved terraces, steps, and walks not exceeding three feet above the average finished grade (measured along the front wall of the building which it serves), other than such as are needed to provide access to the buildings on the lot, shall not project to within 15 feet of a front lot line nor within 10 feet of any other lot line.
 - (f) Non-mobile residential recreational uses including but not limited to jungle gyms,, tennis courts or basketball courts (excluding standalone basketball hoops) shall not be located within a front yard. Such facilities may be located in a side or rear yard provided they are at least 5 feet from a property line. Swimming pools shall be regulated as per Section 300-19.
 - (g) Standalone basketball hoops shall be located no closer than 10 feet from any property line.
- (2) Entries and porticos. A roofed-over but unenclosed projection in the nature of an entry or portico, not more than eight feet wide and extending not more than six feet out from the front wall of the building, shall be exempt from front yard requirements when the building otherwise complies with all other yard restrictions of this chapter.
- D. Unlicensed vehicles. The sale or storage of unlicensed vehicles or parts is prohibited in all districts except in enclosed structures or except in compliance with approval of the Planning Board, provided that one unlicensed vehicle belonging to the homeowner or resident may be stored outside or offered for sale for a period of not longer than one year on any property which is a one- or two-family dwelling, and provided that the vehicle is in condition for legal operation on the public highways. The standard for legal operation on public highways shall be the New York State Department of Motor Vehicle laws.
- E. Roadside, yard, attic, garage, basement, tag, moving and estate sales. Roadside, yard, attic, garage, basement, tag, moving, estate and like sales shall not be permitted, or their contents displayed or stored, within 25 feet of the edge of the pavement or curb of highways, roads or rights-of-way in the Town of New Windsor, except farm produce, farm products or nursery stock. Such sales shall only be permitted on properties which are one- or two-family dwellings. Only merchandise, personal property, equipment or articles owned and used by the owner or occupant of the property in which such sales are conducted shall be permitted. Such sales shall not be permitted where a hazard to traffic is created on any public road, commercial parking lot or private driveway. Signs advertising such sales shall conform to the requirements of this Code; all such signs must be taken down within 24 hours of the date of the sale, and no sign shall be placed on utility poles or other public property. Such sales shall not be permitted to exceed two days in any calendar month.

F. Waste or discarded material storage.

- (1) No waste, discarded items, debris, junk, secondhand material or unused equipment shall be stored or kept outside, including such items as may be intended for future reuse or resale or used previously in the business or on the premises, which taken all together exceeds in bulk three cubic yards, except those items stored in a metal dumpster container awaiting removal from the property. Items covered in this subsection shall include but not be limited to boxes, trash, cases, tiles, metals, plastics, wood, cloth, stone, cement pipes or otherwise.
- (2) A maximum of six garbage cans shall be set outside for each scheduled pickup by the Highway Department or a private contractor. Any debris resulting from spillage by animals or otherwise shall be promptly picked up by the owner or occupant, and empty garbage cans shall be brought inside on the same day as pickup.

§ 300-12 Nonresidential buildings (excluding accessory structures).

A. Waiver of yards. No side yard or rear yard shall be required where such yard abuts an operating railroad right-of-way.

B. Courts.

- (1) The minimum dimension of an inner court shall not be less than twice the height of all surrounding walls. However, in no case shall an inner court have a dimension of less than 30 feet. The height of walls surrounding an inner court shall be measured from the finished grade at the base thereof to the top of such wall, except that, in the case of roofs with a slope exceeding five inches vertical to 12 inches horizontal, the height shall be measured to the mean point between the top of said wall and the highest point of the roof.
- (2) The minimum dimension of an outer court shall be 20 feet, and its depth shall not exceed its width.

C. Nonresidential Buildings on Lots Abutting or Within Residential Districts.

- (1) Where a nonresidential building is proposed to be constructed or expanded on a lot that abuts any lot in a residential district or is within a residential district, then a buffer sufficient, in the Planning Board's opinion, to screen and protect the residential use shall be provided

§ 300-13 Accessory uses.

The following are permitted accessory uses in all zones on the Table of Use/Bulk Regulations:

A. Swimming pools subject to § 300-19.

- B. Domestic animals as follows: not more than three cats and/or dogs over one year old. In no case shall the number of domestic animals total more than three in combination of species of cat or dog.
- C. In the R-1, R-2, R-3 zones, up to two horses , plus their foals not over one year old, provided that the animal(s) is restrained such that said animal cannot enter any portion of the premises within 75 feet of any property line shall be permitted on a lot of not less than 2.5 acres where appropriate facilities, to be determined by the Planning Board, exist. One additional horse shall be permitted for each additional acre above 2.5 acres.

§ 300-14 Shopping carts.

Shopping carts must be retained on the site of the store or complex. Cart collection areas shall be conveniently located throughout the parking area for the return of carts to established areas. Cart collection areas shall not conflict with required parking spaces.

§ 300-15 Landscaping, lighting and environmental control.

- A. The use of living plant material as an adjunct to all uses subject to these regulations shall be mandatory. Landscape materials shall be utilized in a positive manner in all developments for architectural elements, space articulation, screening, privacy control, erosion control, acoustical control, atmospheric purification, traffic control, glare and reflection control, solar radiation control, wind control, precipitation control and temperature control.
- B. Land area restricted from development coverage shall be preserved in natural landscape or shall be reestablished according to the following general standard: one deciduous or evergreen tree of 2 1/2 inches caliper per 2,000 square feet of area.
- C. Developed area shall be landscaped according to the following general standard: one deciduous or evergreen tree per 5,000 square feet of area and one low-planting species per 10 linear feet of parcel perimeter.
- D. Erosion and sedimentation controls shall be in accordance with the New York State Standards and Specifications for Erosion and Sediment Control, which controls shall be the minimum requirements.
- E. For uses requiring site development plan review, the Planning Board may require a detailed landscaping plan.

§ 300-16 Clustered open space.

Open space land created as part of a subdivision, site plan or planned unit development and not dedicated fee simple to the Town of New Windsor for recreation purposes shall be in one of the following forms of ownership: a homeowners association approved by the Town Attorney and Town Board and by the New York State Attorney General, or any other arrangements approved

by the Town Attorney and Town Board as satisfying the intent of this chapter. Whenever a homeowners association is proposed, the Town Board shall retain the right to review and approve the articles of incorporation and charter of said homeowners association and to require whatever conditions it shall deem necessary to ensure that the intent and purpose of this chapter are carried out. In consideration of said approval, the Town Board shall, in part, require the cluster development to meet the following conditions:

- A. The homeowners association shall be established as an incorporated, nonprofit organization operating under recorded land agreements through which each lot owner, and any succeeding owner, is automatically a member and each lot is automatically subject to a charge for a proportionate share of the expenses for the organization's activities.
- B. Title to all common property shall be placed in the homeowners association, or definite and acceptable assurance shall be given that it automatically will be so placed within a reasonable period of time.
- C. Each lot owner shall have equal voting rights in the association and shall have the right to the use and enjoyment of the common property.
- D. Once established, all responsibility for operation and maintenance of the common land and facilities shall lie with the homeowners association.
- E. The preservation of all common areas shall be recorded directly on the subdivision plat or by reference on the plat to a dedication in a separately recorded document. Re-subdivision of such areas is prohibited. The dedication shall:
 - (1) Reserve the title of the common property for the homeowners association free of any cloud of implied public dedication.
 - (2) Commit the developer to convey the areas to the homeowners association at an approved time.
 - (3) Grant easements of enjoyment over the area to the lot owners.
 - (4) Give to the homeowners association the right to borrow for improvements upon the security of the common areas.
 - (5) Give to the homeowners association the right to suspend membership rights for nonpayment of assessments or infraction of published rules.
- F. Covenants shall be established which limit all lots to one-family use, or as stipulated on the approved subdivision plat or site plan, and all common lands to open space uses. No structures may be erected on such common lands except as shown on a subdivision plat or site plan approved by the Planning Board.
- G. Each deed to each lot sold shall include by reference all recorded declarations, such as

covenants, dedications and other restrictions, including assessments and the provision for liens for nonpayment of such.

- H. The homeowners association shall be perpetual, shall purchase insurance, pay taxes and specify in its charter and bylaws an annual homeowner's fee and provision for assessments and shall establish that all such charges become a lien on each property in favor of said association. The homeowners association shall have the right to proceed in accordance with all necessary legal action for the foreclosure and enforcement of liens, and it shall also have the right to commence action against any member for the collection of any unpaid assessment in any court of competent jurisdiction.
- I. The developer shall assume all responsibilities as previously outlined for the homeowners association until a majority of the dwelling sites are sold, at which time the homeowners association shall be automatically established.
- J. Prior to subdivision plat or site plan approval, the developer shall file with the Town Board a performance bond to insure the proper installation of all recreation and park improvements shown on the subdivision plat site plan and a maintenance bond to insure the proper maintenance of all common lands until the homeowners association is established. The amount and period of said bonds shall be determined by the Planning Board, and the form, sufficiency, manner of execution and surety shall be approved by the Town Attorney and Town Board.

ARTICLE VI: SUPPLEMENTARY USE REGULATIONS

§ 300-17 Purpose.

In addition to the use regulations set forth in Article III, the following specific regulations and standards for uses listed herein shall be the minimum requirements for the protection of the public health, welfare and safety.

§ 300-18 Senior citizen housing.

- A. Purpose. The Town Board has determined that there is a need for housing projects located and designed to meet the special needs and habits of older people, to be known as "senior citizen projects," and believes that senior (age-restricted) housing should be encouraged by the Town of New Windsor. Such housing projects will tend to contribute to the dignity, independence and meaningful activity of older people in retirement years. Housing projects for the Town's senior citizens, if not properly located, constructed, and maintained, may be detrimental to the general welfare, health and dignity of the residents. It is also deemed essential that the Town of New Windsor safeguard against the deterioration of a senior housing project.
- B. General. A senior citizen project may be allowed in the SCO zoning district, following issuance of a special permit of the Town Board of the Town of New Windsor, and site plan

review and approval of the Planning Board. The special permit may also provide within the project a reasonable number of senior-citizen-oriented commercial establishments (accessory uses), on the basis that the purpose of these establishments is to primarily serve the senior housing residents. The senior citizen housing project is conditional upon obtaining a special permit from the Town Board in accordance with the procedure set forth and upon substantial compliance with the standards and regulations herein.

C. Intent and objectives. It is the intent of this section to encourage the development of market priced, as well as affordable multiple-dwelling units for senior citizens. The specific objectives of this section are:

- (1) To encourage housing opportunities for senior citizens, including affordable housing for those senior citizens living on fixed or limited income in order to give such residents the opportunity to remain in the community close to family and friends.
- (2) Make quality affordable housing available to senior citizens, with the scope and design of the project intended to establish a worthwhile asset for this segment of the community and the community as a whole.
- (3) To provide appropriate sites for the development of such housing in convenient locations.
- (4) To provide, within the boundary of the project, appropriate social, recreational and other facilities, which will contribute to the independence and meaningful activity of senior citizens.
- (5) To provide for the safety and convenience of residents through site design and housing unit design requirements which consider:
 - (a) The special physical and social needs of senior citizens; and
 - (b) The physical characteristics of the project site.
- (6) To regulate the nature and density of senior citizen housing developments, their site layout and design and their relationship to adjoining uses so as to provide ample outdoor living and open space for residents, to preserve trees, and to minimize detrimental effects on the site and surrounding neighborhood and environment.

D. Site selection.

- (1) Sites must be located in areas suitable for residential purposes, in pre-designated overlay zones, and must be reasonably free of objectionable conditions such as industrial odors, noise, dust, air pollution, high traffic volumes, incompatible land uses, steep slopes, wetlands and other environmental or physical constraints.
- (2) The site should be located within reasonable proximity to public transportation service,

or, in the alternative, provisions shall be included in the design of the site for future routing of buses, and provisions for a shuttle bus or other transportation service at the site (i.e., shelters and pickup areas should be included within the plans. Such plans for any and all bus shelters and pickup areas shall specifically provide for both maintenance and ownership of said shelters or pickup areas as directed by the Planning Board).

- (3) The site shall be located such that access to the site can be obtained from a public street which meets current design standards of the Town with respect to roadway width and alignment and acceptable sight distances can be developed at the site entry/exit and at intersections in the vicinity of the site.
- (4) Sites must be selected with due regard to providing residents with reasonable access to such conveniences and facilities as public transportation, hospitals and medical services, shopping, religious, cultural and recreational facilities.
- (5) Municipal water and sewers must be provided at the site, as well as electric, cable and telephone.
- (6) Sites shall afford a safe and convenient system of drives, service access and adequate internal and off-site sidewalks conveniently accessible to all occupants.

E. Permitted principal and accessory uses.

- (1) Principal uses. The senior citizen housing special use permit will allow as a principal permitted use:
 - (a) Multifamily dwelling project, provided that such dwellings are arranged as individual dwelling units for the occupancy of senior households, as defined below. The senior citizen site plan may be a mix of various occupancy units (multiple-unit [three-dwelling units or greater], duplex and/or single units), provided that the units are arranged to function as an overall site plan project, and remain a single property without internal subdivision.
 - (b) Exception. Notwithstanding the other provisions of this section, one unit may be occupied by a project superintendent or manager and his/her family (not to exceed a total of five persons). If a project has 100 units or more, an on-site project superintendent or manager will be required. The superintendent or manager's unit will be included in the calculated number of units in a project. The project superintendent and family will not be subject to the occupancy restrictions listed elsewhere in this section.
 - (c) Exclusion. This chapter does not permit nursing homes, convalescent homes, private proprietary homes, homes for the aged, or other facility regulated and licensed by the New York State Department of Health under the Public Health Law of the State of New York.

(2) Accessory uses. The following accessory uses are permitted:

- (a) Accessory uses, including buildings and facilities, which are reasonably necessary to meet the proper maintenance, administration, security, off-street parking, storage, fencing and utility system needs of the project and are subordinate to the residential character of the project.
- (b) The following accessory uses are permitted and encouraged (and in projects with 100 or more units, may be required by the Planning Board as a condition of site plan approval), provided that such facilities are approved by the Planning Board and managed as part of the building or complex of buildings and restricted in their use to residents of the building or building complex and further provided that there are no external advertising signs for such facilities:
 - [1] A dining room (with kitchen to be utilized by facility staff), meeting rooms, theaters, multipurpose rooms, lounges, library, lobby areas, or other similar common spaces.
 - [2] A beauty shop and/or barbershop, provided that the maximum floor area devoted to such use is no more than 400 square feet.
 - [3] A convenience shop for daily needs such as food items, prescription and nonprescription drugs, newspapers and small household items and similar items, provided that the maximum floor area devoted to such use is no more than 500 square feet.
 - [4] A coin-operated vending machine room, provided that the maximum floor area devoted to such use is no more than 150 square feet.
 - [5] Office space for a doctor, medical infirmary or clinic and/or social service delivery.
 - [6] Security office and/or on-site security patrols.
 - [7] Outdoor pool, game areas, sitting areas, walking trails or other outdoor recreation or leisure facilities.
- (c) Exception. Notwithstanding the other provisions of this section, certain community recreation facilities and open space not restricted in use to residents of the project and accessory to a senior citizen housing project may be open to the public and separately owned and operated.
 - [1] Authorization for such an exception must be approved by the Town Board as part of the special permit. Details for operation of the facilities (including hours of operation, public and resident participation limitations, etc.) may be conditions of the special permit and shall be subject to the review and approval

of the Planning Board, as part of site plan review.

- [2] The following accessory uses are permitted as such community recreation facilities:
 - [a] Protected open space and parks.
 - [b] Golf course, together with related clubhouse, driving range, putting green and miniature golf facilities;
 - [c] Marina and related clubhouse.
 - [d] Gymnasium, sports dome or similar facility.
 - [e] Indoor and/or outdoor swimming pools.
 - [f] Tennis, paddleball and handball facilities.
 - [g] Other similar active or passive recreation facilities as may be deemed appropriate by the Town Board and Planning Board.
- [3] Any such clubhouses, buildings or other such facilities provided as part of the community recreation facilities shall not count toward the required indoor community space of Subsection I(1)(b) of this section.
- [4] Such community recreation facilities shall be subject to the following:
 - [a] The authority of a board or entity which shall be responsible for the operation and affairs of the property encompassing both the community recreation facility and the senior housing project and shall have the power to enforce obligations of the owners.
 - [b] A declaration to be recorded or an offering plan approved by the appropriate governmental authorities which preserves the senior residents' rights to use the facilities on terms no less favorable than the general public.
 - [c] Charges for the operation, care, upkeep, repair and maintenance of the common elements which serve both the senior housing project and community recreation facility.
 - [d] Any and all conditions of the special permit issued by the Town Board and any conditions of the site plan approval issued by the Planning Board.
 - [e] These restrictions, relative to the operation of the community recreation facilities, shall be memorialized in a covenant filed with the Orange County Clerk's office and Town Clerk's office, and shall be incorporated into all

contracts for the operation of the community recreation facilities.

F. Occupancy and occupancy definitions for residential occupancy. Occupancy of dwelling units within a senior citizen project shall be for residential purposes only. Occupancy shall be limited to senior households as defined and described below:

(1) Senior household. For purposes of this section, a senior household shall consist of:

- (a) One or more persons, all of whom are 55 years of age or older.
- (b) A spouse (over or under the age of 55) of a qualified resident 55 years of age or older.
- (c) One adult 18 years of age or older residing with a person who is 55 years of age or older, provided that said adult is essential to the long-term care of the senior citizen as certified by a physician duly licensed in New York State.
- (d) A permanently disabled child or grandchild of a qualified resident may reside with the senior citizen, provided that the senior resident is a parent or grandparent of the child.

(2) For the purpose of this section, "affordable housing" shall mean residential units available for a sales price or rental fee that will be affordable to households earning 100% of the Orange County, New York, median family income as established by the United States Department of Housing and Urban Development; or if no such statistics are available, then as that term may be defined by and for the County of Orange, Department of Planning.

(3) Guests. Temporary occupancy by guests of families who reside in a Senior Housing Unit shall be permitted for a maximum of seven consecutive nights, provided that such occupancy does not exceed 30 total days in any calendar year, total for all guests (combined) at a particular dwelling unit. Guests staying for more than three consecutive nights will advise the project superintendent or manager of their occupancy. The project superintendent or manager shall maintain a log of all guests and such log shall be available for review by the Code Enforcement Officer of the Town.

(4) Preferences. As permitted by law, first preference for a unit will be given to existing residents of the Town of New Windsor, second preference to the parents of residents of the Town of New Windsor and third preference to other residents of Orange County. A current waiting list shall be maintained by the project representatives. It is not the intent of this provision that any units be held for preference residents if none are on the current waiting list.

G. Lot and bulk requirements.

(1) The following lot and bulk requirements shall apply to projects for a senior citizen

housing special use permit, although the Planning Board may upgrade the requirements so as to make the same compatible with the general neighborhood and in accordance with good planning:

- (a) Minimum lot area. The minimum permitted lot area shall be five acres (net). In calculating the maximum number of dwelling units per acre, the net lot area (as defined in this chapter) shall be utilized, and any lands which are subject to easements, rights-of-way, encumbrances, NYSDEC or federal wetlands, etc., shall not be considered in the calculation of the total number of available acres. An exception to this restriction is as follows:

[1] For senior citizen housing projects, up to 5% of the property may be encumbered by public or utility easements or rights-of-way without deduction from lot area or subtraction from unit density calculation.

- (b) Maximum residential density. The maximum permitted density shall be nine dwelling units per net acre. If the applicant desires a unit density in excess of nine units per net acre, this will be permitted, up to a maximum of 14 dwelling units per net acre, only if affordable housing is provided. In these instances, a minimum of one affordable housing unit shall be provided for each two dwelling units provided above nine per net acre (i.e., 50% of all units over nine per acre shall be affordable housing units).
- (c) Maximum development coverage (impervious surface area). Maximum development coverage shall not exceed 75% of the gross lot area. Impervious surface area will include all buildings, structures, and parking area, walkways, and similar improvements.
- (d) Minimum front yard. The minimum front yard setback shall be 75 feet measured from the property line. The Planning Board shall have the option of reducing the front yard to 50 feet, where the neighborhood and site conditions warrant the same, in the sole discretion of the Planning Board.
- (e) Minimum side and rear yard. The minimum side yard and rear yard setbacks shall be 50 feet measured from the property line. If the property directly abuts a state or county highway, a Town roadway classified as a major road, or a single family residential lot this setback shall be increased to 75 feet.
- (f) Lot width. The minimum lot width shall be 50 feet.
- (g) Maximum building height. The maximum building height shall be 50 feet and shall not exceed three stories.
- (h) Setbacks as referenced herein do not apply to internal driveways, parking lots, or similar site improvements; however, these improvements are subject to the review of the Planning Board, which may require specific setbacks of improvements or

addition of screening as may be warranted by the conditions of the project.

- (i) In those districts where senior housing is permitted the bulk/use table for each zone shall include a separate category entitled "Senior citizen housing" in the appropriate column of uses, which shall also include a footnote stating "Site plan approval by Planning Board required" and "Special permit by Town Board required."
- (2) Exception. Notwithstanding the other provisions of this section, certain projects which are otherwise viable may be proposed on lots where the existing configuration of the property warrants decreased setbacks than those provided hereinabove. A waiver may be considered by the Planning Board for setback requirements and lot width, subject to the following:
 - (a) Authorization for such specific waivers shall have been considered by the Town Board and shall be included in the special permit issued by the Town Board.
 - (b) Waivers shall only be permitted for side yard and rear yard setbacks and lot width. The maximum waiver shall be a fifty-percent reduction from the requirement referenced in the Code.
 - (c) The applicant shall demonstrate the reasons why the project could not be reasonably developed in compliance with the setback values referenced in the Code, and such a waiver is necessary and appropriate. Such factors as a length to width ratio of the lot being 5:1 or greater, and/or a limited access width to a public roadway shall be demonstrated.
 - (d) In considering the waiver, the Planning Board shall consider the impact of the requested waiver and require additional mitigation in the form of screening (fencing, landscaping, etc.) to minimize the impact on the adjoining properties.
 - (e) When considering such waivers, the Planning Board shall consider access requirements to the site and structures for all emergency services.
- (3) Cash payment in lieu of affordable housing units. If the Town Board finds that the community would benefit greater with a cash payment in lieu of provision of affordable housing units, the Town Board may require a cash payment in lieu of the affordable units in accordance with Town Law § 261-b and in an amount established by the Town Board and published in the Standard Schedule of Fees. The maximum density of the project shall still not exceed 14 dwelling units per acre. These funds shall be placed in a dedicated senior citizen fund to be used by the Town Board exclusively for amenities or other services targeted for senior citizens within this project or to benefit senior citizens in general within the Town. Cash payment shall be made prior to a stamp of site plan approval for the project.

H. Site regulations and miscellaneous requirements.

- (1) The project design shall be functional and shall provide for the safety, health and general welfare of occupants of this age group.
- (2) Access and internal roadways. All access and internal roadways shall be privately owned and maintained unless otherwise approved by the Town Board. All entrances and exits for ingress, egress, and interior circulation will be of a width and location suitable for emergency access to the site and senior housing.
- (3) Parking and circulation. Parking spaces shall be provided at the ratio of 2.0 spaces per unit (minimum). The fractional spaces will be rounded to the next highest number. The parking spaces will be conveniently located, evenly distributed, arranged, striped and identified by signage. In general, all spaces shall be within 150 to 200 feet of the unit they are intended to serve. Additional spaces shall be provided at the clubhouse and recreational facilities. The Planning Board may require additional parking for other accessory facilities. No commercial vehicles will be permitted. (Such restriction shall not apply to management company or condo association vehicles utilized for operation of the site.) For purposes of this section, garage and driveway parking spaces will count in the parking calculation.
- (4) Outdoor recreation. Usable outdoor recreation space will be provided in a type and quantity as required by the Planning Board. Such space shall consist of both active and passive recreation amenities, such as exercise and game areas, outdoor pool, patio areas, landscaped and shaded sitting areas, walking or jogging trails.
- (5) Sidewalks. Each project will provide suitable sidewalks, which may include handrails when appropriate and required by code. Painted or stamped crosswalks will be provided where a sidewalk crosses an access drive.
- (6) Landscaping. Each project will provide suitable landscaping in accordance with the standards set by the Planning Board and as required elsewhere in this Code for site plans. Landscaping shall be provided abundantly around active and passive recreational areas and stormwater quality facilities. Landscaping shall provide visual interest in all four seasons.
- (7) Building location; standards.
 - (a) Placement and orientation of buildings on the site shall be subject to the following requirements:
 - [1] The side of any principal building, if opposite the side of another principal building, shall be separated there from by a distance of not less than the height of the (higher) opposite bounding wall.
 - [2] In the case of front-to-front and rear-to-rear orientation, the spacing of the buildings shall be not less than 1 1/2 the height of the (higher) opposite bounding wall.

- [3] If the rear of any principal building shall face the front of another principal building, it shall be distant there from not less than twice the height of the (higher) opposite bounding walls.
- [4] Each principal building will be not less than 25 feet from any parking area, roadway, and/or curb. If such area includes a sidewalk, the setback shall be measured from the building side of the walk.
- (b) In computation of spacing between buildings, the measurements shall be taken from the outside extremity of any decks, balconies and similar extensions to the structure.
- (8) Basement units. Units provided in senior housing projects shall not be of a type or configuration which could be considered basement units, wherein any living quarters are substantially below grade (greater than 33% of lowest level); however, this restriction is not intended to prohibit basements, garages or storage areas as a part of the units otherwise provided with living quarters which are above grade.
- (9) Identification signs will be permitted in a location or locations as approved by the Planning Board. Sign dimensions and other requirements shall comply with Article VIII of this chapter.
- (10) Building identification signs and number/letter identification shall be provided in accordance with the applicable sections of the Code, and as recommended by the Code Enforcement Officer, to promote efficient and timely identification for residents, visitors and emergency personnel.
- (11) Artificial lighting. All areas within the project shall be provided with suitable artificial lighting, sufficient for the convenience and safety of older persons. Lighting shall be designed so as not to extend onto adjoining properties or cause glare onto the same. In general, lighting levels at the property line shall be 0.5 foot-candle or less, other than at project entrances, where increased levels will be considered or required.
- (12) The location of buildings, the arrangement of dwelling units within the buildings and suitable materials and methods of construction shall be utilized to reduce the transmission of sound.
- (13) Adequate facilities shall be provided for the removal of snow, trash and garbage and for general maintenance of the project. Trash and garbage facilities shall be enclosed in a permanently enclosed structure. The structure shall be aesthetically appealing and landscaped. Spacing and distribution of the facilities shall be convenient and recognize the age group being served.
- (14) Miscellaneous.
 - (a) Utility service to the site shall be buried.

- (b) Outdoor public address systems or other outdoor amplified noise shall be prohibited.
 - (c) The architectural style of the proposed project, exterior materials, finish and color shall be consistent with existing community and neighborhood character. Building facades shall be brick, wood, stone or a combination thereof. No metal siding shall be used and no concrete block shall be visible from any side of any building.
 - (d) The site layout and sequencing of the site construction and development shall be such that the site amenities and the indoor community space shall be complete and usable, and all applicable certificates of occupancy and/or compliance obtained, before 50% of the dwelling units are occupied. If the developer has not accomplished the same, he/she shall not request building permits (nor shall any be issued) for any work for the second 50% of the dwelling units.
- (15) Applicants are advised that bonding requirements for key site improvements, including landscaping, as referenced in § 300-86 of the Town Code, are applicable.

I. General building and unit requirements.

- (1) Buildings shall require the following facilities and services:
 - (a) Laundry. Laundry facilities (washers and dryers) adequate to serve the occupants of the project shall be provided and maintained. Facilities shall be provided either as common facilities or as individual facilities. Whichever type facilities are selected, all appliances shall be provided and maintained by the project applicant/developer.
 - [1] If common facilities are provided, the same shall be located in each building, in a convenient location, unless otherwise authorized by the Planning Board.
 - [2] If individual facilities are provided, washer and dryer units (or combination-type units) shall be provided in a utility closet in each unit of the project.
 - (b) Indoor community space. Indoor community space and related equipment shall be required to provide social and recreational opportunities for project occupants. Included may be such facilities as recreation/game rooms; art/craft room, workshop, indoor Jacuzzi/pool, meeting rooms, movie theater, computer/media center, exercise rooms or other space for leisure, active or passive recreation. Such space shall be provided based on a total indoor community space equal to 20 square feet of space per dwelling unit in the project, of which seven square feet (per dwelling unit) shall be a community/meeting room. The type and mixture of facilities shall be as required by the Planning Board. The applicant, as part of the site plan application, shall provide a narrative description and general arrangement plan for such facilities.
 - (c) Appropriate twenty-four-hour maintenance service provisions (at minimum, an on-call service contract shall be maintained).

- (d) If there are 100 dwelling units or more, the Planning Board may require any or all of the permitted accessory uses set forth above under § 300-18E.
 - (e) All windows and doors for common areas and community buildings shall be provided with screens for fresh air ventilation.
- (2) Dwelling unit requirements.
- (a) Unit size. The minimum permitted floor area shall be 400 square feet for efficiency units, 500 square feet for one-bedroom units and 650 square feet for two-bedroom units.
 - (b) Unit occupancy density. The maximum number of residents who may reside in a dwelling unit shall be two persons for efficiency and one-bedroom units, and three persons for two-bedroom units.
 - (c) Unit amenities.
 - [1] Kitchen and bathroom. All dwelling units shall be designed for independent living and shall contain full bathroom and kitchen facilities, including but not limited to a sink, refrigerator, stove, range or combined unit in the kitchen and a sink, toilet, bathtub and shower in the bathroom. The sizing of the kitchen facilities shall be consistent with the type of unit and occupancy.
 - [2] Handicapped adaptable. Twenty-five percent of all dwelling units shall be adaptable for use by non-ambulatory persons.
 - [3] Handicapped accessible. Twenty-five percent of all dwelling units shall be handicapped accessible and, at minimum, contain:
 - [a] Doorways that are a minimum of three feet wide.
 - [b] Lever-type doors, handles and faucets.
 - [c] Nonskid floors.
 - [d] Ramps in addition to steps.
 - [e] Door thresholds that are flush with the floor.
 - [4] Safety and convenience features. For the safety and convenience of residents, all dwelling units shall, at minimum, contain the following features:
 - [a] Non-scalding faucets.
 - [b] Grab bars located around showers and tub areas.

- [c] Smoke and carbon monoxide detectors.
- [d] Air conditioning in each dwelling unit and also in the recreational or accessory buildings or rooms. An individually controlled thermostat shall be provided for the unit.
- [e] Adequate heating system with a designed capacity to maintain 78° F. in all bathrooms and 75° F. in all habitable rooms and corridors when the outside temperature is 0°F. An individually controlled thermostat shall be provided for the system.
- [f] Whenever natural ventilation is not adequate for comfort and health, mechanical ventilation should be provided. Kitchens and bathrooms not having windows on an exterior wall shall be provided with mechanical ventilation.
- [g] Electric outlets located a minimum of 24 inches above the floor.
- [h] Each dwelling unit shall have bath facilities, including as a minimum a lavatory, water closet, and bathtub or stall shower.
- [i] The size of the bathroom and arrangement of the fixtures shall be adequate for the convenient use of the fixtures by older persons. The floor finish shall be impervious to water and shall have nonslip characteristics. The threshold shall be flush with the floor.
- [j] All plumbing fixtures, accessories, and trim shall be selected for and provide the maximum features of design that contribute to the safety, convenience and aid to older persons.
- [k] Shower stalls shall include a built-in seat or bench or room enough for a bath stool.
- [l] A panic alarm/medical alert system in the bathroom, bedroom, and living area connected to a twenty-four-hour service available to residents upon request of such residents with the cost of such service to be borne by the residents who request it.
- [m] Cooking appliances that do not utilize an open flame.
- [n] Screens shall be provided for each window and door. Windows shall be able to be opened by the resident.
- [o] A twenty-four-hour emergency phone number for private security posted in a conspicuous location.

- [5] Storage. A minimum of 20 square feet of storage area shall be provided for each unit, within the same building as the dwelling unit. Such storage area shall be in addition to normal closet space.
 - [6] Noise. Measures will be taken to reduce the transmission of noise by use of suitable materials (i.e., carpeting and acoustic baffling), methods of construction, and arrangement of units within the buildings.
- (3) All general building and dwelling unit requirements provided as part of the site plan approval and special permit shall be maintained throughout the life of the project, unless otherwise subsequently approved by the Planning Board.

J. Procedure for senior citizen housing special use permit and site plan approval.

- (1) An initial application package for a senior citizen housing development shall include an application for a special use permit and an application for site plan approval. The initial application package shall be delivered to the Planning Board. The initial application package shall include, at minimum:
- (a) A survey of the parcel prepared and certified by a licensed land surveyor, which shall also depict existing zoning, wetlands, topography and other such information;
 - (b) A site plan showing the buildings, garages, improvements, existing utilities, driveways, walkways and other appropriate information to outline the proposal;
 - (c) The site plan shall clearly define the number of proposed units and bedrooms per unit and number of affordable units;
 - (d) Other detailed plans, specifications data, and a narrative which defines the details and accessory uses proposed for the project, and other such information which the Town Board and/or Planning Board may deem necessary; and
 - (e) A completed long form environment assessment form.
- (2) The Planning Board will review the initial application package to determine whether the application is sufficiently complete to commence preliminary review. Within 30 days of determining that the application is sufficiently complete to commence preliminary review, the Planning Board shall take the following steps:
- (a) The Planning Board will refer the initial application package to the Town Board for its review and comment to the Planning Board regarding the special use permit. Within 45 days from the date of the next regular Planning Board meeting following the submittal, at which all material shall have been received, the Town Board will comment on the suitability of the proposed location for senior citizen housing;

- (b) The Planning Board may circulate a notice that it intends to serve as lead agency for a coordinated environmental review pursuant to the State Environmental Quality Review Act (SEQRA); and
 - (c) If the application is subject to the referral requirements of New York General Municipal Law § 239-l, m, n or nn, then the Planning Board will coordinate a joint referral for both the special use permit and site plan approval.
- (3) Within 62 days following either the adoption of a SEQRA negative declaration or a SEQRA findings statement, and following a public hearing on the special use permit application, and provided that the requirements of New York General Municipal Law § 239-l, m, n or nn have been met if required, the Town Board may either grant or deny a special use permit for the project.
 - (4) In granting a special permit, the Town Board may impose such terms and conditions as the Town Board shall deem necessary to accomplish the reasonable application of the applicable standards as provided in this chapter, including but not limited to off-site improvements and requiring a performance bond, to guarantee completion of such required improvements.
 - (5) If the Town Board grants a special use permit, the Planning Board will then review and consider the site plan application. The Planning Board will apply the procedure and criteria set forth governing site plan approval under § 300-86 of the Code.

K. Approval and enforcement.

- (1) A certificate of occupancy will be required for each dwelling unit, and said certificate shall be understood to only permit occupancy in conformance with this chapter, the special permit approval of the Town Board and the site plan approval of the Planning Board, and any conditions thereof.
- (2) A certification of compliance will be filed annually with the Town for each dwelling unit. The owner, homeowners' association, or an authorized agent will file (in the office of the Town Building Inspector) a certification of compliance with the Code Enforcement Officer stating that the project, each dwelling unit, and the occupancy of each unit is in conformance with this chapter and the permit and approvals granted by the Town.
- (3) Each project will have at least two responsible parties, to wit, the owner, owner's agent or site manager, who will each provide the Code Enforcement Officer with his or her telephone number in the event of an emergency.
- (4) Any violation of the conditions of this section, site plan or special permit approval will constitute a zoning violation and will subject the project owner (landlord, in case of rentals), homeowners' association or board of managers (in case of condos or townhouse projects) to the remedies and fines set forth in § 300-81 of the Code or elsewhere in the

Town of New Windsor code.

- (5) Reference to this section and any conditions of approval shall be included in a deed as a covenant running with the land in perpetuity, and shall also be included in any lease or bylaws of any association, condominium or cooperative housing corporation, or any filing with the NYS Attorney General, unless directed otherwise by the Planning Board.
- L. Fees. The applicant will pay an initial review fee of \$1,000 for Town Board review and conceptual review of zoning compliance by the Engineer for the Planning Board. In the event the special permit is granted by the Town Board, and the applicant submits a site plan application to the Planning Board, then, prior to any appearance before the Planning Board, the applicant will pay all fees and escrows required by the Planning Board for site plan review.

§ 300-18.1 Totally affordable senior citizen housing.

- A. Purpose. The Town Board has determined that there is a need for specially designed senior citizen projects which provide all units as affordable housing units. Totally affordable senior housing projects are intended to meet the purpose, intent and objectives of senior citizen projects, and must comply with all provisions and/or restrictions for senior citizen housing projects, unless specifically modified or waived under this section.
- B. General.
 - (1) A totally affordable senior citizen housing project may be allowed in the SCO overlay zoning district, following issuance of a special permit of the Town Board of the Town of New Windsor and site plan review and approval of the Planning Board. The special permit from the Town Board must identify the project as a totally affordable senior citizen project and may also provide conditions as the Town Board deems appropriate for this type senior citizen housing project.
 - (2) Provided that a proposed development meets the requirements of both the Workforce Housing Overlay zoning district and the Totally Affordable Senior Housing Overlay zoning district and the regulations applicable to both, the Town Board may consider a special use permit application that would combine both workforce housing and totally affordable senior housing within one site plan, regardless of whether the developments shall occur on more than one lot provided that the site is developed uniformly and with appropriate controls to ensure the ongoing maintenance of any shared features.
- C. General requirements. Totally affordable senior citizen housing projects shall meet the following requirements:
 - (1) The site selection shall meet the requirements for senior citizen housing, with special attention to the site being within walking distance of shopping, restaurants and other such services.

- (2) Totally affordable senior citizen housing projects shall consist of multifamily dwelling unit structures only. Duplex and single-unit structures are not permitted.
- (3) Totally affordable senior citizen housing projects are not required to provide accessory uses, unless specific accessory uses are required by the special permit granted by the Town Board. Projects are encouraged to provide amenities as may be appropriate for the specific site and locality. Open space on the site shall, if required by the Planning Board, be provided for passive recreational use.

D. Occupancy and occupancy definitions.

- (1) Residential occupancy. Occupancy of dwelling units within a totally affordable senior citizen project shall be for residential purposes only, and shall comply with all requirements for senior citizen housing projects in this Code.
- (2) For purposes of this section, "totally affordable" shall mean a senior citizen housing project wherein 100% of the units within the project are available for a sales price or rental fee that qualifies as defined under Subsection F of the senior citizen housing section of the Code.

E. Lot and bulk requirements.

- (1) The following lot and bulk requirements shall apply to projects for a totally affordable senior citizen housing special use permit:
 - (a) Minimum lot area. The minimum permitted lot area shall be two acres. In calculating the maximum number of dwelling units per acre, the gross lot area.
 - (b) Maximum residential density. The maximum permitted density shall be 18 totally affordable dwelling units per acre. Dwelling units shall be no greater than one bedroom. In all density calculations, any fractional number .5 or above will be rounded up to the nearest whole number, and less than .5 will be rounded down to the nearest whole number.
 - (c) Maximum development coverage (impervious surface area). Maximum development coverage shall not exceed 80% of the gross lot area. Impervious surface area will include all buildings, structures, and parking area, walkways, and similar improvements.
 - (d) Minimum front yard. The minimum front yard setback shall be 25 feet measured from the property line.
 - (e) Minimum side and rear yard. The minimum side yard and rear yard setbacks shall be 25 feet measured from the property line.

- (f) Maximum building height. The maximum building height shall be 50 feet and shall not exceed three stories.
- (g) Setbacks as referenced herein do not apply to internal driveways, parking lots, or similar site improvements; however, these improvements are subject to the review of the Planning Board, which may require specific setbacks of improvements or addition of screening as may be warranted by the conditions of the project.
- (h) Parking: minimum 1.0 space per unit, inclusive of resident and guest parking. Parking shall meet all other dimensional and functional requirements for parking in the senior citizen housing and site plan sections of this chapter.
- (i) Totally affordable senior citizen housing may be permitted in the Senior Citizen Overlay Zone; the bulk/use table for each zone shall include a separate category entitled "Totally affordable senior citizen housing" in the appropriate column of uses, which shall also include a footnote stating "Site plan approval by planning board required" and "Special permit by Town Board required."

F. Site regulations and miscellaneous requirements.

- (1) The project design shall be functional and shall provide for the safety, health and general welfare of occupants of this age group.
- (2) Access, internal roadways, parking, and circulation shall meet the requirements of senior citizen housing, other than as modified in this section.
- (3) Passive outdoor recreation. Usable outdoor group open passive recreation space may be provided in a type and quantity as required by the Town Board as part of the special permit, with such layout as approved by the Planning Board. Such space shall consist of amenities such as patio areas, landscaped and shaded sitting areas, and walking paths.
- (4) Sidewalks. Each project will provide suitable sidewalks, which may include handrails when appropriate and required by code. Painted or stamped crosswalks shall be provided where a sidewalk crosses an access drive.
- (5) Landscaping. Each project will provide suitable landscaping in accordance with the standards set by the Planning Board and as required elsewhere in this Code for site plans. Applicants are advised that bonding requirements for key site improvements, including landscaping, as referenced in § 300-86 of the Town Code, are applicable.

G. Specific exemptions and modifications from senior citizen housing.

- (1) Totally affordable senior citizen housing projects are not required to comply with the following provisions of the senior citizen housing code requirements:
 - (a) Indoor community space. Indoor community space and related equipment or

facilities are not required for this type project (unless required by Town Board as a condition of special permit).

- (b) Storage. No additional storage is required beyond that provided as closet space in the individual units (unless required by Town Board as a condition of special permit).
- (c) Affordable senior citizen housing projects may not have setbacks further decreased beyond those values called for in this section; provisions of § 300-18G(2) do not apply.

(2) Dwelling unit requirements.

- (a) Unit size. The minimum permitted floor area shall be 400 square feet for efficiency units and 500 square feet for one-bedroom units. In no case shall unit size exceed one bedroom or 750 square feet in any unit.
- (b) Unit occupancy density. The maximum number of residents who may reside in a dwelling unit shall be two persons.
- (c) Unit amenities.

- [1] Kitchen and bathroom. All dwelling units shall be designed for independent living and shall contain a full bathroom and, at minimum, a kitchen area to include a sink, refrigerator, stove/range unit. The sizing of the kitchen facilities shall be consistent with the type of unit and occupancy.
- [2] All units shall be handicapped adaptable and accessible as specified in the senior citizen housing section of this chapter.
- [3] All units shall include the safety and convenience features as outlined in the senior citizen housing section of this chapter.

H. Procedure for senior citizen housing special use permit. All applications for totally affordable SCH projects shall follow the same review and approval process as all senior citizen housing projects. The initial application made to the Town Board shall specifically identify the project as a totally affordable SCH project and shall furnish sufficient data to demonstrate qualifications for the same. To qualify for subsequent review and Planning Board approval as a totally affordable SCH project, the special Permit granted by the Town Board must include approval as a totally affordable SCH project and assign any conditions of permit approval for the same. All paperwork documenting funding sources shall be provided to the Town Board with the application for a totally affordable SCH project.

I. Approval and enforcement.

- (1) A certificate of occupancy will be required for each dwelling unit, and said certificate shall be understood to only permit occupancy in conformance with this chapter, the

special permit approval of the Town Board and the site plan approval of the Planning Board, and any conditions thereof.

- (2) A certification of compliance will be filed annually with the Town for each dwelling unit. The owner, homeowners' association, or an authorized agent will file (in the office of the Town Building Inspector) a certification of compliance with the Code Enforcement Officer stating that the project, each dwelling unit, and the occupancy of each unit is in conformance with this chapter and the permit and approvals granted by the Town.
 - (3) Each project will have at least two responsible parties, to wit, the owner, owner's agent or site manager, who will each provide the Code Enforcement Officer with his or her telephone number in the event of an emergency.
 - (4) Any violation of the conditions of this section, site plan or special permit approval will constitute a zoning violation and will subject the project owner (landlord, in case of rentals), homeowners' association or board of managers (in case of condos or townhouse projects) to the remedies and fines set forth in § 300-81 of this chapter or elsewhere in the Town of New Windsor codes.
 - (5) This section and any conditions of approval will be included in a deed, any lease or bylaws of any association, condominium or cooperative housing corporation, or any filing with the NYS Attorney General, unless directed otherwise by the Planning Board.
- J. Fees. The applicant will pay an initial review fee and application fees in accordance with the Town's Schedule of Fees as adopted and amended by the Town Board. The applicant shall also pay all escrow fees required in connection with the review of the applications by the Town Board, the Planning Board and their professional consultants.

§ 300-18.2 Conversion of Senior Housing to Market Rate Multi-family Housing

- A. Purpose. The Town Board of the Town of New Windsor recognizes that the overall residential real estate market has experienced a significant deterioration in market conditions as evidenced by declining sales activity, increasing unsold inventory levels and declining home prices. The effect of this slowdown, coupled with the extraordinary financial events of 2008, has resulted in an exaggerated decline in the market demand for market rate age-restricted housing. Declining market prices have restricted the ability of seniors to sell their homes, and have thus prevented their ability to "downsize" and relocate into market rate senior housing. The purpose of this law is to allow certain projects that have undergone extensive planning and design as of the adoption of this law to convert to market rate unrestricted multi-family developments, subject to Planning Board site plan review and approval to ensure that the public health, safety and welfare are not adversely impacted as a result of the conversion to market rate housing.
- B. Applicability. The provisions of this section shall only apply to proposed developments that have applied for approval and received either a SEQRA determination of non-

significance or approval for market-rate senior housing developments prior to the adoption of this law. The provisions of this section shall not apply to Totally Affordable Senior Housing.

- C. Any proposed development that meets the Applicability requirements of this section may be constructed as market rate unrestricted multi-family developments without limitation as to residency requirements for market-rate senior housing, provided that the following conditions are met:
- (1) The proposed development receives site plan approval from the Planning Board. In reviewing the application, the Planning Board shall not apply any zoning district bulk area or use requirements that would otherwise apply to market rate multi-family developments within the underlying zoning district. The site plan application shall include the following information:
 - A. The plan showing the buildings, garages, improvements, utilities, driveways, walkways, accessory uses, wetlands, topography, applicable zoning, the number of proposed units and bedrooms per unit; All project approvals, including but not limited to, SEQR findings, negative declaration, and/or resolution of final site plan approval;
 - B. Other detailed plans and narrative of the project expressly listing any proposed changes other than as to the age restriction, and other such information which the Town Board and/or Planning Board may deem necessary; and
 - C. An Environmental Assessment Form evaluating the potential environmental impacts of the conversion of market-rate senior housing to market-rate multi-family housing.
 - (2) The Planning Board will apply the procedure and criteria set forth governing site plan approval under § 300-86 of this Chapter. In granting site plan approval, the Planning Board may impose such terms and conditions as the Planning Board shall deem necessary to accomplish the the applicable standards as provided in this Chapter.
 - (3) Review Fees and Escrow. The applicant will pay an initial review fee of \$1,000.00 for Planning Board review, in addition to any escrow required by the Planning Board to pay for the cost of the Town's consultants' review.
 - (4) Municipal Fees. Any fees previously imposed by the Town Board as part of the approval for market-rate senior housing or that may otherwise apply to residential development shall be paid by the applicant as a condition of site plan approval, or at such other time as may be determined by the Town Board.

§ 300-19 Recreational uses.

Recreational uses listed below, whether in private or public ownership and other than accessory

to single-family residential use, shall be subject to the following regulations.

A. Outdoor swimming pools shall be classified and located as follows:

Type of Pool (class)	Maximum Area (square feet)	Minimum Setback From Any Property Line (feet)
A	Over 3,500	175
B	2,501 to 3,500	150
C	1,501 to 2,500	125
D	1,500 to 800	100
E	800 or less	Refer to § 300-19(G)

B. All outdoor recreational facilities shall comply with the following minimum setback requirements:

Type of Facility	Minimum Setback From Any Property Line (feet)
Handball courts	100
Basketball courts	60
Baseball diamond (not outfield)	100
Volleyball courts	60
Concession stands	100
Casino buildings	100
Concentrated picnic areas (tables, barbecue pits, etc.)	100
Outfield relative to baseball or softball	50
Paintball	500
Parking areas	25
Picnic grounds (not improved)	50
Games normally involving fewer than 10 people, such as horseshoe pits, nature trails, etc.	50
Golf course fairways	50
Soccer or football fields	50
Tennis courts	40

C. Lighting. If outdoor lighting is provided for any of the foregoing recreational facilities, including swimming pools, which permits the use of the facilities after 10:00 p.m., the applicable setback requirements for such facility shall be doubled. All lighting shall be located so as not to be visible at the source from any adjoining property. Floodlights on poles

not less than 75 feet from any property line directed toward the center of property and shielded from any nearby residential areas shall be deemed to comply with the latter regulations.

- D. Noise. Public address systems or any other amplified noises are subject to Planning Board approval and in no case shall cause a nuisance or exceed the levels specified under § 300-71. Public address systems or any other amplified noises are subject to separate permit of the Town Board.
- E.
- E. Buildings. All structures shall be of a permanent nature.
- F. Private swimming pools. Private swimming pools in residential zones are permitted subject to the following:
 - 1. Such pool shall not be located in any required front yard, and in no case closer than 10 feet to any property line.
 - 2. The entire portion of the premises upon which an inground pool is located shall be entirely enclosed with an opaque, chain-link wire or other sturdy fence not less than four feet in height.
 - 3. Every gate or other opening in the fence enclosing such pool shall be kept securely closed and locked at all times when said pool is not in use. Access shall be self-closing and self-latching to prevent accidental or unauthorized entry.
 - 4. Such pool shall not occupy more than 35% of the balance of the rear yard area, after deducting the area of all private garages and other accessory buildings or structures.
 - 5. If the water for such pool is supplied from the public water supply system, the inlet shall be above the overflow level of said pool.
 - 6. Such pool shall be constructed, operated and maintained in compliance with the applicable provisions of the New York State Sanitary Code relating to public swimming pools.
 - 7. No loudspeaker or amplifying device shall be permitted which can be heard beyond the bounds of the property or lot where said pool is located.
 - 8. No swimming pool shall be filled or used until the foregoing requirements shall have been certified as met by the Code Enforcement Officer.

§ 300-20 Workforce Housing. This section pertains to the provision of affordable, workforce housing for the residents of the Town of New Windsor.

§ 300-20(A) Purposes.

The Town Board has determined that there is a need for housing developments located and designed to meet the needs of everyday working families and citizens of the Town of New Windsor, to be known as "Workforce Housing Developments," and believes that workforce housing should be encouraged by the Town of New Windsor. Such housing developments will tend to contribute to the dignity and independence of people at a greater range of income levels. Workforce Housing Developments, if not properly located, constructed, and maintained, may be detrimental to the general welfare, health and dignity of the residents. It is also deemed essential that the Town of New Windsor safeguard against the deterioration of a Workforce Housing Development.

§ 300-20 (B) General.

- (1) A Workforce Housing Development may be allowed in the Workforce Housing Overlay (WHO) zoning district, following issuance of a special permit of the Town Board of the Town of New Windsor, and site plan review and approval of the Planning Board. The special permit may also provide within the development a reasonable number of accessory uses to primarily serve the development's residents. Workforce Housing Developments must obtain a special permit from the Town Board in accordance with the procedure set forth and upon compliance with the standards and regulations herein.
- (2) Provided that a proposed development meets the requirements of both the Workforce Housing Overlay zoning district and the Totally Affordable Senior Housing Overlay zoning district and the regulations applicable to both, the Town Board may consider a special use permit application that would combine both workforce housing and totally affordable senior housing within one site plan, regardless of whether the developments shall occur on more than one lot provided that the site is developed uniformly and with appropriate controls to ensure the ongoing maintenance of any shared features.

§ 300-20(C) Intent and objectives.

It is the intent of this section to encourage the development of moderately priced, affordable dwelling units for everyday working families and citizens of the Town of New Windsor. The specific objectives of this section are:

- (1) To encourage affordable housing opportunities for working families and citizens in order to give such residents the opportunity to remain in the community close to their work, family and friends.
- (2) Make quality affordable housing available with the scope and design of the development intended to establish a worthwhile asset for this segment of the community and the community as a whole.

- (3) To provide appropriate sites for the development of such housing in convenient locations.
- (4) To provide, within the boundary of the development, appropriate social, recreational and other facilities, which will contribute to the independence and meaningful activity of residents.
- (5) To regulate the nature and density of Workforce Housing Developments, their site layout and design and their relationship to adjoining uses so as to provide ample outdoor living and open space for residents, to preserve trees, and to minimize detrimental effects on the site and surrounding neighborhood and environment.

§ 300-20(D). Site selection.

- (1) Sites must be located in areas suitable for residential purposes and must be reasonably free of objectionable conditions such as industrial odors, noise, dust, air pollution, high traffic volumes, incompatible land uses, steep slopes, wetlands and other environmental or physical constraints.
- (2) The site should be located within reasonable proximity to public transportation service, or, in the alternative, provisions shall be included in the design of the site for future routing of buses, and provisions for a shuttle bus or other transportation service at the site (i.e., shelters and pickup areas should be included within the plans. Such plans for any and all bus shelters and pickup areas shall specifically provide for both maintenance and ownership of said shelters or pickup areas as directed by the Planning Board).
- (3) The site shall be located such that access to the site can be obtained from a public street which meets current design standards of the Town with respect to roadway width and alignment and acceptable sight distances can be developed at the site entry/exit and at intersections in the vicinity of the site.
- (4) Sites must be selected with due regard to providing residents with reasonable access to such conveniences and facilities as public transportation, hospitals and medical services, shopping, religious, cultural and recreational facilities.
- (5) Municipal water and sewers must be provided at the site, as well as electric, cable and telephone.
- (6) Sites shall afford a safe and convenient system of drives, service access and adequate internal and off-site sidewalks conveniently accessible to all occupants.

§ 300-20(E). Permitted principal and accessory uses.

- (1) Principal uses. The Workforce Housing Development special use permit will allow as a principal permitted use:
 - (a) Multifamily dwelling development, provided that such dwellings are arranged as

individual dwelling units for the occupancy of working family households, as defined below. The site plan may be a mix of various occupancy units (multiple-unit, three-dwelling units or greater], duplex and/or single units), provided that the units are arranged to function as an overall site plan development, and remain a single development, although the applicant may pursue a zero lot-line subdivision provided that appropriate controls are created to ensure long term maintenance and control of common areas.

- (b) Exception. Notwithstanding the other provisions of this section, one unit may be occupied by a development superintendent or manager and his/her family (not to exceed a total of five persons) . If a development has 100 units or more, an on-site development superintendent or manager will be required. The superintendent or manager's unit will be included in the calculated number of units in a development. The development superintendent and family will not be subject to the occupancy restrictions listed elsewhere in this section.

(2) Accessory uses. The following accessory uses are permitted:

- (a) Accessory uses, including buildings and facilities, which are reasonably necessary to meet the proper maintenance, administration, security, off-street parking, storage, fencing and utility system needs of the development and are subordinate to the residential character of the development.
- (b) The following accessory uses are permitted and encouraged (and in developments with 100 or more units, may be required by the Planning Board as a condition of site plan approval), provided that such facilities are approved by the Planning Board and managed as part of the building or complex of buildings and restricted in their use to residents of the building or building complex and further provided that there are no external advertising signs for such facilities:
 - [1] A coin-operated vending machine room, provided that the maximum floor area devoted to such use is no more than 150 square feet.
 - [2] Security office and/or on-site security patrols.
 - [3] Outdoor pool, game areas, sitting areas, walking trails or other outdoor recreation or leisure facilities.
- (c) Exception. Notwithstanding the other provisions of this section, certain community recreation facilities and open space not restricted in use to residents of the development and accessory to a Workforce Housing Development may be open to the public and separately owned and operated. Authorization for such an exception must be approved by the Town Board as part of the special permit. Details for operation of the facilities (including hours of operation, public and resident participation limitations, etc.) may be conditions of the special permit and shall be subject to the review and approval of the Planning Board, as part of site plan review.

§ 300-20(F). Occupancy and occupancy definitions for residential occupancy. Occupancy of dwelling units within a Workforce Housing Development shall be for residential purposes only. Occupancy shall be limited to households as defined and described below:

- (1) Workforce Household. For purposes of this section, a Workforce Household shall consist of one or more persons, whose combined total income is at or below one hundred thirty (130%) percent of the median income of residents of Orange County, New York.
- (2) Guests. Temporary occupancy by guests of families who reside in a Workforce Housing Unit shall be permitted for a maximum of seven consecutive nights, provided that such occupancy does not exceed 30 total days in any calendar year, total for all guests (combined) at a particular dwelling unit. Guests staying for more than three consecutive nights will advise the development superintendent or manager of their occupancy. The development superintendent or manager shall maintain a log of all guests and such log shall be available for review by the Code Enforcement Officer of the Town.
- (3) Preferences. As permitted by law, first preference for a unit will be given to existing residents of the Town of New Windsor.

§ 300-20(G). Lot and bulk requirements.

- (1) The following lot and bulk requirements shall apply to Workforce Housing Developments for a special use permit, although the Planning Board may increase or add additional requirements so as to make the same compatible with the general neighborhood and in accordance with good planning:
 - (a) Minimum lot area. The minimum permitted lot area shall be five acres.
 - (b) Maximum residential density. The maximum permitted density shall be ten dwelling units per acre.
 - (c) Maximum development coverage (impervious surface area). Maximum development coverage shall not exceed 75% of the gross lot area. Impervious surface area will include all buildings, structures, and parking area, walkways, and similar improvements.
 - (d) Minimum front yard. The minimum front yard setback shall be 75 feet measured from the property line. The Planning Board shall have the option of reducing the front yard to 50 feet, where the neighborhood and site conditions warrant the same, in the sole discretion of the Planning Board.
 - (e) Minimum side and rear yard. The minimum side yard and rear yard setbacks shall be 50 feet measured from the property line. If the property directly abuts a state or county highway, or a Town roadway classified as a major road, this setback shall be increased to 75 feet. (f) Lot width. The minimum lot width shall be 50 feet.

- (f) Maximum building height. The maximum building height shall be 50 feet and shall not exceed three stories.
- (g) Setbacks as referenced herein do not apply to internal lot-lines if the proposed development is to be a zero lot-line development, internal driveways, parking lots, or similar site improvements; however, these improvements are subject to the review of the Planning Board, which may require specific setbacks of improvements or addition of screening as may be warranted by the conditions of the development and surrounding uses.
- (h) Workforce Housing Developments are only permitted in the WHO zone, as determined on the attached map.

§ 300-20(H). Site regulations and miscellaneous requirements.

- (1) The development design shall be functional and shall provide for the safety, health and general welfare of occupants of this demographic group.
- (2) Access and internal roadways. All access and internal roadways shall be privately owned and maintained unless otherwise approved by the Town Board. All entrances and exits for ingress, egress, and interior circulation will be of a width and location suitable for **emergency access to the site** and workforce housing.
- (3) Parking and circulation. Parking spaces shall be provided at the ratio of 2.0 spaces per unit (minimum). The fractional spaces will be rounded to the next highest number. The parking spaces will be conveniently located, evenly distributed, arranged, striped and identified by signage. Additional spaces shall be provided at any clubhouse and recreational facilities. The Planning Board may require additional parking for other accessory facilities. No commercial vehicles will be permitted. (Such restriction shall not apply to management company or condo association vehicles utilized for operation of the site.) For purposes of this section, garage and driveway parking spaces will count in the parking calculation.
- (4) Outdoor recreation. Usable outdoor recreation space will be provided in a type and quantity as required by the Planning Board. Such space shall consist of both active and passive recreation amenities, such as exercise and game areas, outdoor pool, patio areas, landscaped and shaded sitting areas, walking or jogging trails.
- (5) Sidewalks. Each development will provide suitable sidewalks, which may include handrails when appropriate and required by code. The Planning Board may waive this requirement when, in its discretion, such sidewalks are not appropriate or required.
- (6) Landscaping. Each development will provide suitable landscaping in accordance with the standards set by the Planning Board and as required elsewhere in this Code for site plans.
- (7) Building location; standards.
 - (a) Placement and orientation of buildings on the site shall be subject to the following

requirements:

- [1] The side of any principal building, if opposite the side of another principal building, shall be separated there from by a distance of not less than the height of the (higher) opposite bounding wall.
 - [2] In the case of front-to-front and rear-to- rear orientation, the spacing of the buildings shall be not less than 1 1/2 the height of the (higher) opposite bounding wall. Each principal building will be not less than 25 feet from any parking area, roadway, and/or curb. If such area includes a sidewalk, the setback shall be measured if the rear of any principal building shall face the front of another principal building, it shall be distant there from not less than twice the height of the (higher) opposite bounding walls. from the building side of the walk.
- (b) In computation of spacing between buildings, the measurements shall be taken from the outside extremity of any decks, balconies and similar extensions to the structure.
- (8) Basement units. Units provided in Workforce Housing Developments shall not be of a type or configuration which could be considered basement units, wherein any living quarters are substantially below grade (greater than 33% of lowest level); however, this restriction is not intended to prohibit basements, garages or storage areas as a part of the units otherwise provided with living quarters which are above grade.
 - (9) Identification signs will be permitted in a location or locations as approved by the Planning Board. Sign dimensions and other requirements shall comply with Article VIII of this chapter.
 - (10) Building identification signs and number/letter identification shall be provided in accordance with the applicable sections of the Code, and as recommended by the Office of the Fire Inspector, to promote efficient and timely identification for residents, visitors and emergency personnel.
 - (11) Artificial lighting. All areas within the development shall be provided with suitable artificial lighting, sufficient for the convenience and safety of residents. Lighting shall be designed so as not to extend onto adjoining properties or cause glare onto the same. In general, lighting levels at the property line shall be 0.5 foot-candle or less, other than at development entrances, where increased levels will be considered or required.
 - (12) The location of buildings, the arrangement of dwelling units within the buildings and suitable materials and methods of construction shall be utilized to reduce the transmission of sound.
 - (13) Adequate facilities shall be provided for the removal of snow, trash and garbage and for general maintenance of the development. Trash and garbage facilities shall be enclosed in a permanently enclosed structure. The structure shall be aesthetically appealing and landscaped. Spacing and distribution of the facilities shall be convenient.

(14) Miscellaneous.

- (a) Utility service to the site shall be buried.
- (b) Outdoor public address systems or other outdoor amplified noise shall be prohibited.
- (c) The architectural style of the proposed development, exterior materials, finish and color shall be consistent with existing community and neighborhood character.
- (d) The site layout and sequencing of the site construction and development shall be such that the site amenities and the indoor community space shall be complete and usable, and all applicable certificates of occupancy and/or compliance obtained, before 50% of the dwelling units are occupied. If the developer has not accomplished the same, he/she shall not request building permits (nor shall any be issued) for any work for the second 50% of the dwelling units.

(15) Applicants are advised that bonding requirements for key site improvements, including landscaping, as referenced in § 300-86 of the Town Code, are applicable.

§300-20(I). General building and unit requirements.

(1) Buildings shall require the following facilities and services:

- (a) Laundry. Laundry facilities (washers and dryers) adequate to serve the occupants of the development shall be provided and maintained. Facilities shall be provided either as common facilities or as individual facilities. If common facilities are selected, all appliances shall be provided and maintained by the development applicant/developer.

[1] If common facilities are provided, the same shall be located in each building, in a convenient location, unless otherwise authorized by the Planning Board.

[2] If individual facilities are provided, washer and dryer units (or combination-type units) shall be provided in a utility closet in each unit of the development.

- (b) Indoor community space. Indoor community space and related equipment shall be required to provide social and recreational opportunities for development occupants. Included may be such facilities as recreation/game rooms; art/craft room, workshop, indoor Jacuzzi/pool, meeting rooms, movie theater, computer/media center, exercise rooms or other space for leisure, active or passive recreation. Such space shall be provided based on a total indoor community space equal to 20 square feet of space per dwelling unit in the development, of which seven square feet (per dwelling unit) shall be a community/meeting room. The type and mixture of facilities shall be as required by the Planning Board. The applicant, as part of the site plan application, shall provide a narrative description and general arrangement plan for such facilities.

(c) If there are 100 dwelling units or more, the Planning Board may require any or all of the permitted accessory uses set forth above under § 300-20(E) (2) (b).

(d) All windows and doors for common areas and community buildings shall be provided with screens for fresh air ventilation.

(2) Dwelling unit requirements.

(a) Unit size. The minimum permitted floor area shall be 450 - 500 square feet for efficiency/studio units, 600 - 725 square feet for one-bedroom units and 750-950 square feet for two-bedroom units. Units over two-bedrooms shall be as set forth in the New York State Division of Housing & Community Renewal Design Handbook Section 4.03.03 as updated.

(b) Unit occupancy density. The maximum number of residents who may reside in a dwelling unit shall be 1.5 persons per bedroom.

(c) Unit amenities.

[1] Kitchen and bathroom. All dwelling units shall be designed for independent living and shall contain full bathroom and kitchen facilities, including but not limited to a sink, refrigerator, stove, range or combined unit in the kitchen and a sink, toilet, bathtub and shower in the bathroom. The sizing of the kitchen facilities shall be consistent with the type of unit and occupancy.

[2] Storage. A minimum of 20 square feet of storage area shall be provided for each unit, within the same building as the dwelling unit. Such storage area shall be in addition to normal closet space.

[3] Noise. Measures will be taken to reduce the transmission of noise by use of suitable materials (i.e., carpeting and acoustic baffling), methods of construction, and arrangement of units within the buildings.

(3) All general building and dwelling unit requirements provided as part of the site plan approval and special permit shall be maintained throughout the life of the development, unless otherwise subsequently approved by the Planning Board.

§ 300-20(J). Procedure for Workforce Housing Development special use permit and site plan approval.

(1) An initial application package for a Workforce Housing Development shall include an application for a special use permit and an application for site plan approval. The initial application package shall be delivered to the Planning Board. The initial application package shall include, at minimum:

(a) A survey of the parcel prepared and certified by a licensed land surveyor, which

shall also depict existing zoning, wetlands, topography utilizing two-foot contours, and other such information;

- (b) A site plan showing the buildings, garages, improvements, existing utilities, driveways, walkways and other appropriate information to outline the proposal;
 - (c) The site plan shall clearly define the number of proposed units and bedrooms per unit;
 - (d) Other detailed plans, specifications data, and a narrative which defines the details and accessory uses proposed for the development, and other such information which the Town Board and/or Planning Board may deem necessary; and
 - (e) A completed long form environment assessment form.
- (2) The Planning Board will review the initial application package to determine whether the application is sufficiently complete to commence preliminary review. Within 30 days of determining that the application is sufficiently complete to commence preliminary review, the Planning Board shall take the following steps:
- (a) The Planning Board will refer the initial application package to the Town Board for its review and comment to the Planning Board regarding the special use permit. Within 45 days from the date of the next regular Planning Board meeting following the submittal, at which all material shall have been received, the Town Board will comment on the suitability of the proposed location for Workforce Housing;
 - (b) The Planning Board may circulate a notice that it intends to serve as lead agency for a coordinated environmental review pursuant to the State Environmental Quality Review Act (SEQRA); and
 - (c) If the application is subject to the referral requirements of New York General Municipal Law § 239-1, m, n or nn, then the Planning Board will coordinate a joint referral for both the special use permit and site plan approval.
- (3) Within 62 days following either the adoption of a SEQRA negative declaration or a SEQRA findings statement, and following a public hearing on the special use permit application, and provided that the requirements of New York General Municipal Law § 239-1, m, n or nn have been met, the Town Board may either grant or deny a special use permit for the development.
- (4) In granting a special permit, the Town Board may impose such terms and conditions as the Town Board shall deem necessary to accomplish the reasonable application of the applicable standards as provided in this chapter, including but not limited to off-site improvements and requiring a performance bond, to guarantee completion of such required improvements.

- (5) If the Town Board grants a special use permit, the Planning Board will then review and consider the site plan application. The Planning Board will apply the procedure and criteria set forth governing site plan approval under § 300 - 86 of the Code.

§ 300-20(K). Approval and enforcement.

- (1) A certificate of occupancy will be required for each dwelling unit, and said certificate shall be understood to only permit occupancy in conformance with this chapter, the special permit approval of the Town Board and the site plan approval of the Planning Board, and any conditions thereof.
- (2) A certification of compliance will be filed annually with the Town for each dwelling unit. The owner, homeowners' association, or an authorized agent will file (in the office of the Town Building Inspector) a certification of compliance with the Code Enforcement Officer stating that the development, each dwelling unit, and the occupancy of each unit is in conformance with this chapter and the permit and approvals granted by the Town.
- (3) Each development will have at least two responsible parties, to wit, the owner, owner's agent or site manager, who will each provide the Code Enforcement Officer with his or her telephone number in the event of an emergency.
- (4) Any violation of the conditions of this section, site plan or special permit approval will constitute a zoning violation and will subject the development owner (landlord, in case of rentals), homeowners' association or board of managers (in case of condos or townhouse developments) to the remedies and fines set forth in § 300-81 of the Code or elsewhere in the Town of New Windsor codes.
- (5) Reference to this section and any conditions of approval shall be included in a deed as a covenant running with the land in perpetuity, and shall also be included in any lease or bylaws of any association, condominium or cooperative housing corporation, or any filing with the NYS Attorney General, if required, unless directed otherwise by the Planning Board.

§ 300-20(L) Fees.

The applicant will pay an initial review fee and application fees in accordance with the Town's Schedule of Fees as adopted and amended by the Town Board. The applicant shall also pay all escrow fees required in connection with the review of the applications by the Town Board, the Planning Board and their professional consultants.

§ 300-21 Watershed Protection Overlay District.

A. Purpose and Intent of District

To promote the health, safety and welfare of the community by protecting and preserving the

surface and groundwater resources of the Town from any use of land or buildings which may reduce the quality of its water resources.

The intent of the Watershed Protection Overlay (WPO) District is to limit the amount of impervious surface permitted within the District in order to control non-point source discharge and pollution. Cluster development within the WPO may be required at the discretion of the Planning Board.

B. Scope of Authority

The Watershed Protection Overlay District is considered as overlaying other zoning districts. Uses not permitted in the portions of the districts so overlaid shall also be prohibited in this district.

C. Establishment and Definition of District

- (1) The Watershed Protection Overlay District includes all lands delineated by the boundaries of the drainage areas of the Silver Stream Reservoir and Lake Washington and within 100 feet of water courses and surface water bodies which contribute to a public water supply, and which create the catchment or drainage areas of such water courses and bodies, as part of their natural drainage system. The map defining the Watershed Protection Overlay District boundaries, entitled "Public Water Supply Watershed Boundary Maps, Town of New Windsor" drawn at a scale of 1 inch to 500 feet, are hereby adopted by the Town Board and are incorporated herein by reference.
- (2) Where the bounds delineated are in doubt or in dispute, the burden of proof shall be upon the owner of the land in question to show where they should properly be located. If the property owner can prove, to the satisfaction of the Planning Board and the Town Engineer that his property does not drain into waters supplying the watershed then this district shall not apply. At the request of the owner the Town may engage a geologist, hydrologist or other qualified professional to determine more accurately the location and extent of a watershed or recharge area, and may charge the owner for the cost of the investigation.

D. Prohibited Uses.

The following land uses, activities, devices, structures, and/or substances are prohibited within the Watershed Protection Overlay District:

- (1) Dry cleaning establishments.
- (2) Junk and salvage yards, including recycling centers.
- (3) Car washes, except when located on public water and sewer and where water is recycled.
- (4) Boat and motor vehicle service, storage and repair establishments.

- (5) Any industrial use that discharges processed wastewater into anything other than the public sewer.
- (6) Commercial removal or relocation of earth materials, including but not limited to sand, gravel, topsoil, metallic ores, or bedrock, excluding such earthwork activities undertaken in accordance with a site plan approved by the Planning Board.
- (7) Any animal feedlots or pastures less than 5 acres in size lying within 100 feet of the center line of all brooks, streams and rivers or within 100 feet of the normal high-water line of lakes, ponds, marshes, swamps and bogs.
- (8) The storage of salt and road de-icing chemicals.
- (9) The outdoor storage of fertilizers, herbicides, and pesticides and outdoor uncovered storage of manure.
- (10) Burial in any cemetery or other place within 100 feet of the high water mark of a course of public water supply or tributary thereto.
- (11) The disposal of solid wastes other than brush or stumps.
- (12) The disposal of leachable wastes.
- (13) The dumping of snow contaminated by de-icing chemicals.
- (14) The storage or disposal of hazardous materials, except for the storage of chemicals for use associated with the operation of public water supply facilities.
- (15) The storage and/or sale of petroleum and other hydrocarbons other than that normally associated with residential use, except for the storage of fuel for use associated with the operation of public water supply facilities. Heating oil shall be stored within the buildings which it will heat. Underground storage of any petroleum product is expressly prohibited.
- (16) Any discharge of water which has been used for washing, cooking or otherwise altered and devices for the collection, storage and disposal of said wastes, unless that water is of household origin and is processed, prior to discharge, through a treatment system that satisfies the minimum requirements of the New York State Department of Health.
- (17) Sanitary systems, including privy, dry well, or other place for the collection, storage or disposal of human excrement that does not satisfy the minimum requirements of the New York State Department of Health, including any amendments imposed by the Orange County Department of Health.
- (18) Storage or disposal of any human excrement or compost containing human excrement, or any municipal, commercial or industrial refuse or waste product or polluting liquid or any substance which in the opinion of the New York State DEC is of a nature that is poisonous or injurious either to human beings or animals, or other putrescible organic matter whatsoever, at any place from which such liquid or substance may flow or be washed or carried into said source of water supply or tributary thereto.
- (19) Manufacturing or processing plant producing wastes which are toxic or injurious either to human beings or animals, unless the location thereof has been expressly approved by the Town Board by special use permit.

E. Special Permit Uses.

The Planning Board, under the authority of Section 300-87 of this ordinance, may allow those businesses permitted in the underlying district and not specifically prohibited in Section 300-3 of this ordinance within the Watershed Protection Overlay District, upon issuance of a special permit in accordance with Section 300-87 hereof and subject to any additional conditions the Board may impose. Any proposed improvement at a minimum shall meet the following criteria:

- (1) Is consistent with the purpose and intent of this ordinance.
- (2) Is appropriate to the natural topography, soils, and other characteristics of the site to be developed.
- (3) Will not have a significant adverse effect, during construction or thereafter, on the existing or potential quality or quantity of water that is available in the Water Supply Protection District, and;
- (4) Is designed to avoid substantial disturbance of the soils, topography, drainage, vegetation and other water-related natural characteristics of the site to be developed.

F. Application of Fertilizers, Pesticides and Herbicides.

For any use involving the application of fertilizers, pesticides, or herbicides, the applicant must prepare a report identifying and stating that all necessary precautions shall be taken to prevent hazardous concentrations of pesticides in the water and on the land within the district as a result of such application and submit it to the Planning Board. Such precautions include, but are not limited to, erosion control techniques, the control of runoff water (or the use of pesticides having low solubility in water), the prevention of volatilization and re-deposition of pesticides and the lateral displacement (i.e. wind drift) of pesticides. The application of fertilizers for non-domestic or non-agricultural uses will be approved only if the applicant can prove that such application shall be made in such manner as to minimize adverse impacts on surface and groundwater due to nutrient transport and deposition and sedimentation.

G. Existing Development.

Existing development may be continued and maintained subject to the provisions provided herein. The expansion of structures or modification of plans must meet the requirements of this ordinance.

- (1) A use shall be considered existing if vested under the Town of New Windsor Zoning Code as of the effective date of this ordinance, based on at least one of the following criteria:
 - (a) Having an outstanding valid building permit in compliance with Section 300-77.
 - (b) Having a site specific or phased development plan that has received conditional final approval from the Planning Board in compliance with Section 300-86.

- (2) Uses of Land. This category consists of land uses existing at the time of adoption of this ordinance. Such uses may be continued except as follows:
- (a) When such use of land has been changed to an allowed use, it shall not thereafter revert to any prohibited use.
 - (b) Such use of land shall be changed only to an allowed use.
 - (c) When such use ceases for a period of two (2) years, it shall not be re-established.
- (3) Reconstruction. Any existing building or built-upon area not in conformance with the restrictions of this ordinance that has been damaged or removed may be repaired and/or reconstructed, provided:
- (a) Repair or reconstruction is initiated within two (2) years of such damage.
 - (b) The total amount of space devoted to impervious area may not be increased unless stormwater control that equals or exceeds the previous development is provided.
 - (c) Non-residential reconstruction requires site plan approval from the Planning Board to ensure the maximum compliance practicable with this section.

H. Buffer Area Requirements

The following buffer requirements for all new development activities in the Watershed Protection Overlay District shall apply:

- (1) A minimum one hundred (100) foot undisturbed buffer is required along the shoreline of the Silver Stream Reservoir and Washington Lake; otherwise, a minimum fifty (50) foot undisturbed buffer is required. Buffers are measured horizontally from the high water mark of impounded water bodies and/or from the top of bank of streams.
- (2) No trees larger than three (3) inches in caliper DBH are to be removed from the required buffer except for diseased trees. The Town of New Windsor may require enhancement of the existing vegetation through the use of supplemental plantings in the buffer area, if necessary, to ensure that the buffer area can properly and effectively perform its filtering and absorption functions.
- (3) No permanent structures, impervious covers, septic tanks or any other disturbance of existing vegetation is permitted in the buffer except for:
 - (a) Structures such as flag poles, signs, and security lights which would result in only diminutive increases in impervious area.
 - (b) Artificial stream bank or shoreline stabilization plans shall be submitted to and approved by the New Windsor Town Engineer.

- (c) Public projects such as road crossings and greenways where no practical alternative exists.

§ 300-22 Sandpits, gravel pits, removal of topsoil and landfill or excavations.

Sandpits, gravel pits, removal of topsoil, mining and landfill operations require site plan approval and special use permit from the Planning Board. Special conditions for such activities shall be as set by the Planning Board, in addition to the following:

- A. The proposed operation shall not adversely affect soil fertility, drainage and lateral support of abutting land or other properties, nor shall it contribute to soil erosion by water or wind.
- B. There shall be no operation between 7:00 p.m. and 7:00 a.m. Monday through Friday, and 6:00 p.m. and 8:00 a.m. on Saturdays, nor on Sundays or legal holidays.
- C. All such uses shall comply with Article X, Performance Standards.
- D. Where any open excavation will have a depth of 10 feet or more and create a slope of more than 30°, there shall be a substantial fence, at least four feet high with suitable gates, where necessary, effectively blocking access to the area in which the excavation is located. Such fence shall be located 50 feet or more from the edge of the excavation. All operations shall be screened from nearby residential uses.
- E. The slope of material in any excavation shall not exceed the normal angle of repose or 45°, whichever is less.
- F. Those portions of access roads within the area of the permit and located within 500 feet of a lot line or an excavation operation shall be provided with a dustless surface.
- G. The top of the natural slope in cut for any excavation, and any mechanical equipment, shall not be less than 50 feet from any lot line.
- H. Before approval is granted, a plan for rehabilitation, showing the current field topography, including the location of watercourses, and a proposed restoration grading plat, indicating the general grades and slopes to which the disturbed area will be graded, shall be submitted and approved. Such approval shall be based upon a finding that all banks shall be left with a slope no greater than 45° and that, upon completion of operations, the land shall be left in a safe condition with all grading and drainage such that natural stormwater leaves the property at the original, natural drainage points and that the area drainage to any one such point is not increased and that the site shall be left in a condition suitable for a use permitted in the district. Where topsoil is removed, sufficient arable soil shall be set aside for re-spreading over all disturbed areas with a minimum depth of four inches. All disturbed areas shall be seeded with a permanent ground cover. Fill shall be of a suitable material approved by the Planning Board.

§ 300-23 Commercial dog or veterinary kennels (not including stables).

The harboring, boarding or training of animals, whether enclosed in a structure or on open land and whether or not accessory to other principal uses of the land, shall be conducted in accordance with the following general standards:

- A. In issuing the special permit for animal kennels, the permit shall stipulate the maximum number and type of animals to be boarded, harbored or trained. That number shall not exceed 10,000 square feet per 100 pounds of animal body weight characteristic of the species so harbored. The square footage of the lot area is that area of the lot not including any required yards.
- B. All facilities shall be maintained in enclosed structures which shall be of soundproof construction and so maintained as to produce no dust or odors at the property line. Exercise pens and runways shall not be maintained within 200 feet of any lot line, nor within 300 feet of the front yard line when such line abuts a residential use or district.
- C. In considering the application for a special permit for animal kennel use, the Planning Board may consider the number, size, breed and temperament of animals to be sheltered and impose reasonable conditions to protect proximate uses, aesthetic impact and safety of the animals sheltered in order to ensure the health, safety and general welfare of the community.

§ 300-24 Multiple-residence developments.

The following standards shall apply to multiple-residence developments, including condominiums, cooperatives and townhouses (for applicable regulations pertaining to Senior Citizen Housing refer to § 300-18 and 300-18.1 of this Code, and for Workforce Housing, refer to § 300-20 of this Code):

- A. All multiple-residence developments shall be serviced by approved central sewage disposal facilities and a central water supply.
- B. All internal roadways shall meet the Town's public road requirements. Access and egress from the proposed development shall be to a street classified as a collector or arterial street as determined by the Highway Superintendent and Planning Board Engineer. Such entrances and exits shall be at least 100 feet from any intersection and shall have at least 300 feet of sight distance in both directions.
- C. No building shall be located within 100 feet of any pond, reservoir, lake or watercourse which is part of a water supply system.
- D. Multiple-residence uses shall be buffered from surrounding conventional residence areas by landscaping and fencing areas occupying the required yards.
- E. Multiple-dwelling structure design features.
 - (1) No multiple-residence building shall be longer than 160 feet.

- (2) No roofline of any structure will exceed 80 feet without a break of at least 5% of the building width.
 - (3) No face of any multiple residence shall consist of less than two planes interrupted by a distance of at least 10% of the building width for each four units contained therein.
 - (4) No structure shall be closer to an adjacent building than the height of the higher building wall. The distance between buildings shall be such that the northernmost building shall receive sun at the lowest window elevation of a dwelling unit for 46 weeks each year (sun angle computation).
 - (5) Provisions shall be made for the enclosed storage of garbage.
 - (6) For each two-bedroom or larger unit provided, one child play space (seat, apparatus or play space) shall be provided.
 - (7) In addition to the standards for landscaping set forth in § 300-15, the grounds and vicinity of buildings shall be provided with decorative landscape materials.
 - (8) Construction materials shall be of a color and texture characteristic of or appropriate blend with the adjacent residential development.
 - (9) Exterior lighting along walks and near buildings shall be provided utilizing architectural grade equipment and shall provide an average of 1.0 foot-candle and not be less than 0.5 foot-candle (measured at ground level), unless other intensities are deemed appropriate by the Planning Board, measured at ground level.
 - (10) Dwelling units shall be so designed and arranged in buildings as to ensure a minimum of three hours of sunlight at one window of each unit per day. No units with full northern exposure shall be permitted.
 - (11) Walks shall be provided throughout the development area that will ensure that drives shall not be required for pedestrian circulation.
- F. Underground installation of electric and other utility systems is required in all multiple-residence developments, including new or upgraded supply systems off site to provide feed/service to the project.

§ 300-25 Home occupations.

The home occupation (subject to special permit of the Planning Board) shall be permitted in accordance with the use tables, provided that:

- A. Such occupation is incidental to the residential use of the premises and is carried on by the resident thereof. There shall be a conclusive presumption that such office or studio use is not incidental to the residential use of the premises if client, patient, student or customer contact

usage of such office or studio by the resident professional exceeds eight hours per day.

- B. Such home occupation must be carried on personally by a resident of the dwelling.
- C. Studios where instruction is offered to a group in excess of four people at one time, or where concerts, recitals or exhibitions are held, are prohibited.
- D. The keeping or boarding of domestic animals is not considered a home occupation, and such use shall require approval of the Planning Board in accordance with § 300-23.

§ 300-26 Gasoline stations and repair garages.

- A. By special permit of the Planning Board, gasoline stations and repair garages are permitted, provided that no plot line of any station shall be closer than 200 feet to a school, playground, church, hospital, library or institution for the elderly or children. No gasoline station shall be permitted within 1,000 feet of any other gasoline facility fronting in the same street. Subject to Planning Board approval, a gasoline station may include a convenience store which customarily sells retail products and food, including deli, bakery and franchise fast food, as an ancillary use.
- B. Ingress and egress.
 - (1) Ingress and egress points for gasoline service facilities shall be located a minimum of 70 feet from the intersection of right-of-way lines on a Town road and shall comply with requirements with respect to state, county or Town roads.
 - (2) Entrance and exit driveways shall have a width of not less than 25 feet and not more than 40 feet, shall be located not nearer than 10 feet to any property line and shall be so laid out as to avoid the necessity of any vehicle backing out across any public right-of-way.
 - (3) Vehicle lifts or pits, dismantled or unlicensed automobiles and all parts or supplies shall be located within a building enclosed on all sides.
 - (4) All service or repair of motor vehicles shall be conducted in a building enclosed on all sides. This requirement shall not be construed to mean that the doors to any repair shop must be kept closed at all times, unless such condition is imposed by the Planning Board due to proximity to other sensitive uses.
 - (5) The storage of gasoline or flammable oils in bulk shall be located fully underground and not nearer than five feet to any property line other than the street line, provided that the vents are located in accordance with NFPA requirements.
 - (6) No gasoline pumps shall be located nearer than 20 feet to any street line.
 - (7) Sites shall be designed for proper movement of delivery vehicles.

§ 300-27 Adult entertainment.

A. Purpose and intent. It is the purpose of this section to promote the health, safety, morals and general welfare of the citizens, including children, of the Town of New Windsor and to establish reasonable and uniform regulations regarding the location and concentration of sexually oriented businesses within the Town. It is not the intent of this amendment to this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment.

B. Definitions of adult establishment or sexually oriented business. The words and phrases set forth below shall have the meanings respectively ascribed to them:

ADULT ARCADE -- Any place in which the public is permitted or invited in which coin-operated or slug-operated motion-picture machines or other image-producing devices are maintained where images are displayed which depict sexual activities or anatomical areas.

ADULT BOOKSTORE -- A commercial establishment having a substantial or significant portion of its stock-in-trade, including but not limited to books, magazines, videotapes, periodicals, devices, clothing, visual representations or writings, depicting or related to sexually explicit anatomical areas or to sexual activities.

ADULT ENTERTAINMENT ESTABLISHMENT -- A bar (whether or not alcoholic beverages are served), juice bar, cabaret, eating or drinking place, theater or similar establishment which regularly features persons who appear in a state of nudity or semi-nudity or live performances which are characterized by the exposure or stimulation of anatomical areas or by sexual activities.

MESSAGE PARLOR -- A commercial establishment providing unlicensed massage services to customers.

C. Businesses prohibited in certain areas. It shall be unlawful to establish or maintain any adult establishment or sexually oriented business, as defined above, within 1,000 feet of the property line of another such establishment, as defined, or a church, house of worship, school, day-care center, nursery school, historical structure, airport, residential zone or residential dwelling.

D. Zones where permitted. No adult arcade, adult bookstore, adult entertainment establishment or massage parlor shall be permitted within any zone in the Town of New Windsor other than the Limited Commercial (LC) Zone, and provided that any such establishment or business shall at all times be subject to the distance limitations set forth in this section.

E. Screening and concealment. Any activity defined in this section shall be screened or otherwise concealed from the public view of children passing by. No sexually explicit materials or activities shall be visible from the street.

- F. Special permit. No adult arcade, adult bookstore, adult entertainment establishment or massage parlor shall be established until the issuance of a special permit by the Planning Board pursuant to § 300-87 of this chapter. The application for a special permit shall be in writing to the Planning Board and shall include a description of the premises for which the permit is sought, a statement of the use which is proposed, a site plan showing all uses and zones within 1,000 feet of the site and such additional information as may be required by the Code or Planning Board. The Planning Board shall call a public hearing for the purpose of considering the special permit. The Planning Board may establish reasonable conditions in issuing the special permit and may require periodic renewals of the special permit. Existing businesses which are covered by the definitions in Subsection B of this section, which are existing as of the date of the adoption of this section, shall nonetheless be subject to reasonable restrictions under this section, provided that the Planning Board may modify the terms of the special permit in such instances.
- G. Penalties for offenses. Any person convicted of violating this section shall be subject to § 300-81 of this Code.

§ 300-28 Telecommunications towers.

- A. Purpose. The purpose of these supplemental regulations is to promote the health, safety and general welfare of the residents of the Town of New Windsor; to provide standards for the safe provision of telecommunications consistent with applicable federal and state regulations; to minimize the total number of telecommunications towers in the community by encouraging shared use of existing and future towers and the use of existing tall buildings and other high structures; and to minimize adverse visual effects from telecommunications towers by requiring careful siting, visual impact assessment and appropriate landscaping.

- B. Definitions. As used in this section, the following terms shall have the meanings indicated:

TELECOMMUNICATIONS TOWER -- Any structure, the total height of which, including underlying or support structures and buildings, is greater than 35 feet in height, which is capable of receiving or transmitting signals for the purpose of communications.

- C. Application of special permit regulations.

- (1) No telecommunications tower, except those towers and uses approved prior to the effective date of this section, shall be used unless it has received a special permit from the Planning Board. No telecommunications tower shall hereafter be erected, moved, reconstructed, changed or altered unless in conformity with these regulations. No existing structure shall be modified to serve as a telecommunications tower unless in conformity with these regulations.
- (2) Applicants proposing to collocate on a previously approved telecommunications tower do not require a special permit. They are, however, subject to site plan review by the Planning Board in accordance with § 300-86.

- (3) These regulations shall apply to all property within the following zones: AP, PI, OLI, HC, LC, and NC. Telecommunications towers shall be specifically excluded from all other zones.
 - (4) Applications for construction of new telecommunications towers shall comply with the Code of Federal Regulations pertaining to objects affecting navigable airspace as delineated within Federal Aviation Regulations (FAR) Part 77. Additionally, no application for construction of a new telecommunications tower will be approved if the proposed tower violates the criteria for obstructions to air navigation as established by FAR Part 77, Subpart C, Obstruction Standards.
- D. Shared use of existing tall structures. At all times, shared use of existing tall structures (for example municipal water towers, multistory buildings, church steeples and farm silos) and existing or approved towers shall be preferred to the construction of new towers.
- (1) An applicant proposing to share use of an existing tall structure shall be required to submit:
 - (a) A completed application for a special permit.
 - (b) Documentation of intent from the owner of the existing facility to allow shared use.
 - (c) A site plan. The site plan shall show, at a minimum, all existing and proposed structures and improvements, including antennas, roads, buildings, guy wires and anchors, parking and landscaping, and shall include grading plans for new facilities and roads. Any modifications of the existing facility shall be indicated on the site plan.
 - (d) An engineer's report certifying that the proposed shared use will not diminish the structural integrity and safety of the existing tall structure and explaining what modifications, if any, will be required in order to certify to the above, including making the facility higher.
 - (e) A completed long environmental assessment form (EAF) and completed visual EAF addendum.
 - (f) A copy of its Federal Communications Commission (FCC) license.
 - (2) If an applicant proposing to share use of an existing tall structure submits complete and satisfactory documentation in accordance with Subsection D(1)(a) through (f) above, and if modifications indicated according to those subsections are deemed insignificant by the Planning Board, and after the Planning Board conducts a public hearing and complies with all State Environmental Quality Review Act (SEQRA) provisions, the Board shall grant a special permit without further review under this section. If the Board determines that any modifications indicated according to such subsections are significant, it may require further review according to all subsections below.

- (3) The Planning Board may modify or waive the setback or lot area requirements in the event that they are not deemed necessary for safety or other valid planning purposes for the site.
- E. New telecommunications towers. The Planning Board may consider a new telecommunications tower when the applicant demonstrates that shared use of existing tall structures and existing or approved towers is impractical. An applicant shall be required to present an adequate report inventorying all existing tall structures above 35 feet and existing or approved towers within a two-mile distance of the proposed site. The report shall demonstrate the need for the proposed facility and provide technical data regarding existing signal coverage. The report shall outline opportunities for shared use of these existing facilities as an alternative to a proposed new tower and shall show reasons why existing towers and structures are not usable. The report shall demonstrate good-faith efforts to secure shared use from the owner of each existing tall structure and existing or approved tower as well as documentation of the physical, technical and financial reasons why shared usage is not practical in each case. Written requests and responses for shared use shall be provided.
- F. Shared usage of existing tower sites for placement of new towers. Where shared use of existing tall structures and existing or approved towers is found to be impractical, the applicant shall investigate shared usage of an existing tower site for its ability to accommodate a new tower and accessory uses. Any proposals for a new telecommunications tower on an existing tower site shall be subject to the requirements below.
- G. New towers at new locations. The Planning Board may consider a new telecommunications tower on a site not previously developed with an existing tower, when the applicant demonstrates that shared use of existing tall structures and existing or approved towers is impractical or that no existing facility could be modified or altered to be usable, and when the Board determines that shared use of an existing tower site for a new tower is undesirable. Any proposal for a new telecommunication tower shall be subject to the requirements of the subsections below.
- H. Future shared use of new towers. The applicant shall design a proposed new telecommunications tower to accommodate future demand for reception and transmitting facilities. The applicant shall submit to the Board a letter of intent committing the owner of the proposed new tower, and successors in interest, to negotiate in good faith for shared use of the proposed tower by a reasonable number of other telecommunications providers in the future. This letter shall be filed with the Code Enforcement Officer prior to issuance of a building permit. Failure to abide by the conditions outlined in the letter may be grounds for relocation of the special permit. The letter shall commit the new tower owner and successors in interest to:
- (1) Respond within 90 days to a request for information from a potential shared-use applicant.
 - (2) Negotiate in good faith concerning future requests for shared use of the new tower by

other telecommunications providers.

- (3) Allow shared use of the new tower if another telecommunications provider agrees in writing to pay charges. The charge may include but is not limited to a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity and depreciation and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference.

I. Site plan review; submission requirements.

- (1) An applicant shall be required to submit a site plan in accordance with § 300-86. The site plan shall show all existing and proposed structures and improvements, including but not limited to roads, buildings, tower(s), guy wires and anchors, antennas, parking and landscaping, and shall include grading plans for new facilities and roads.
- (2) Supporting documentation. The applicant shall submit a complete long form EAF, a complete visual environmental assessment form and documentation on the proposed intent and capacity of use as well as a justification for the height of any tower and justification for any clearing required.
- (3) Engineer's Report for all structures. The applicant shall submit an engineer's report, acceptable in form and content to the Planning Board engineer, detailing the basis and requirements for the design of any structure or extension thereof.
- (4) The Planning Board may require any additional information it deems necessary to consider the application.

J. Lot size and setbacks. All proposed telecommunication towers and accessory structures shall be located on a single parcel and shall be set back from abutting parcels and street lines a distance sufficient to substantially contain on site all ice-fall or debris from tower failure and preserve the privacy of any adjoining residential properties.

- (1) Lot size of parcels containing a tower shall be determined by the amount of land required to meet the setback requirements. If the land is to be leased, the entire area required shall be leased from a single parcel unless the Planning Board determines that this provision may be modified or waived as part of the special permit.
- (2) Telecommunications towers shall be located with a minimum setback from any property line equal to 1/2 of the height of the tower. Equipment or utility structures shall comply with the minimum setback requirements in the underlying zoning district.

K. Visual impact assessment. The Board shall require the applicant to undertake a visual impact assessment which shall include, as a minimum:

- (1) A Zone of Visibility Map, to be provided in order to determine locations where the

tower may be seen.

- (2) Pictorial representations of "before" and "after" views from key viewpoints both inside and outside of the Town, including but not limited to state highways and other major roads, state and local parks, other public lands, preserves and historic sites normally open to the public, and from any other location where the site is visible to a large number of visitors or travelers. The Board shall determine the appropriate key sites at a regular meeting or work session conference with the applicant.
 - (3) Assessment of alternative tower designs and color schemes.
 - (4) Assessment of the visual impact of the tower, guy wires, accessory buildings and overhead utility lines from abutting properties and streets. For new towers the Planning Board may require testing via balloons or cranes or other devices, with photographs submitted to the Board.
- L. New tower design. Alternative designs shall be considered for new towers, including lattice and single pole structures. The design of a proposed new tower shall comply with the following:
- (1) Any new tower shall be designed to accommodate future shared use by other telecommunications providers to the extent practicable.
 - (2) A tower shall have a shape, contour and finish (either painted or unpainted) that minimizes its degree of visual impact. The Planning Board may require a tower to be in the shape of a tree, flagpole, church steeple, etc.
 - (3) The maximum height of any new tower shall not exceed that which shall permit operation without artificial lighting of any kind or nature, in accordance with municipal, state and/or federal law and/or regulation. The Board at its discretion may modify this requirement if the applicant can justify the need to exceed this height limitation.
 - (4) The Board may request a review of the application by a qualified professional engineer or landscape architect retained by the Planning Board in order to evaluate the need for, and the design of, any new tower. The reasonable cost of this review shall be borne by the applicant.
 - (5) All structures shall maximize the use of building materials, colors and textures designed to blend with the natural surroundings.
 - (6) No portion of any tower or structure shall be used for a sign or other advertising purpose, including but not limited to company name, phone numbers, banners and streamers.
- M. Existing vegetation. Existing on-site vegetation shall be preserved to the maximum extent possible. No cutting of trees exceeding four inches in diameter (measured at the height of

four feet off the ground) shall take place prior to the approval of the special permit. The applicant shall also comply with § 300-86C.

- N. Screening. Deciduous or evergreen tree plantings shall be required to screen portions of the tower and all structures from nearby residential property as well as from public sites known to include public sites and views. Where a site abuts a residential property or public property, including streets, ample screening shall be required.
- O. Access. Adequate emergency and service access and maneuver area shall be provided, including access for a tower ladder fire truck. Maximum use of existing roads and private access-ways shall be made. Road construction shall, at all times, minimize ground disturbance and vegetation cutting to within the toe of fill, the top of cuts, or no more than 10 feet beyond the edge of any pavement. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential. An erosion control plan shall be submitted to and approved by the Planning Board prior to any construction.
- P. Parking. Parking shall be provided to assure adequate emergency and service access in accordance with this chapter.
- Q. Fencing. The tower and all structures shall be adequately enclosed by a fence, the design of which shall be approved by the Planning Board. The minimum standard shall be a chain-link fence six feet or eight feet in height, with dark vinyl coating and privacy slats, as well as suitable gate access for emergency purposes.
- R. Public safety. The applicant shall demonstrate that the proposed communications tower will not pose a threat to public health and safety as a result of falling or blowing ice and other debris and that public access to the same has been restricted in order to prevent climbing or other trespass on the structure itself.
- S. Removal. In the event that a tower is not in use for a period of one year, the tower and all structures shall be removed and the site restored to its condition prior to the construction of the related facilities. In the event that the tower is not removed as required by this subsection, then, upon written notice to the applicant securing the approval from the Planning Board for the special permit for the erection of the public communications utility tower and to the owner, which shall be mailed by certified mail to the applicant's address on the application filed with the Planning Board or to such other address as the applicant may provide to the Planning Board from time to time, and also to the owner at the address of record in the Assessor's office, the applicant shall remove the tower and related facilities and restore the premises. In the event that the applicant fails to remove the tower following notice and demand that the applicant do so, the Town shall then have the right to proceed to secure such relief against the applicant to cause the removal and restoration as the Town may deem appropriate, including injunctive relief. Where appropriate, the Town may elect to proceed under Chapter 113, Buildings, Unsafe, of the Town Code. In either event, all costs and expense incurred by the Town of New Windsor in connection with the proceedings to remove or secure, including the cost of actually removing the tower, shall be assessed against the land on which the tower is located.

- T. Intermunicipal notification for new towers. In order to keep neighboring municipalities informed, and to facilitate the possibility of directing that an existing tall structure or existing telecommunications tower in a neighboring municipality be considered for shared use, and to assist in the continued development of county 911 services, the Board shall require that an applicant who proposes a new telecommunication tower shall notify, in writing, the legislative body of each municipality that borders the Town of New Windsor, the Orange County Planning Department and the Director of Orange County Emergency Services. Notification shall include the exact location of the proposed tower and a general description of the project, including but not limited to the height of the tower and its capacity for future shared use. Documentation of this notification shall be submitted to the Board at the time of application.
- U. Notification of nearby landowners. The applicant shall be required to mail notice of the public hearing directly to all landowners whose property is located within 500 feet of the property line of the parcel on which a new tower is proposed. Notice shall also be mailed to the administrator of the state or federal parklands from which the proposed tower would be visible if constructed. Notification, in all cases, shall be made by first-class mail in accordance with Planning Board procedures. Documentation of this notification shall be submitted to the Board prior to the public hearing.

§ 300-29 Bed-and-breakfast establishments.

It has been determined that bed-and-breakfast establishments will generally exist as one of two different types of establishments. For purposes of this chapter, bed-and-breakfast establishments will be categorized as either a bed-and-breakfast residence or a bed-and-breakfast inn. Generally, a bed-and-breakfast residence is smaller and requires owner occupancy, while a bed-and-breakfast inn is larger and may not be required to be owner occupied. The classification of the type of bed-and-breakfast establishment shall be determined by the Planning Board, based on the information provided to the Planning Board by the applicant and based on the specific requirements for the bed-and-breakfast establishment as listed herein below.

- A. Bed-and-breakfast residences are permitted as accessory uses in residential districts subject to site plan approval and the following supplemental regulations:
- (1) The owner-operator of the bed-and-breakfast residence shall be a principal owner-occupant of the single-family residential dwelling to which the guest rooms are accessory.
 - (2) Bed-and-breakfast residences shall be permitted accessories only to single-family detached dwellings.
 - (3) Bed-and-breakfast residences shall not be permitted where physical road access is only to a private road. The driveway serving the bed-and-breakfast residence shall have direct physical access to a public road.

- (4) Full turnaround for the dwelling and the bed-and-breakfast residence shall be provided, except that the Planning Board may waive such turnaround requirement for lots having frontage on and access to a rural street.
 - (5) The establishment and operation of the bed-and-breakfast residence shall not alter the appearance of the residence as single-family detached dwelling.
 - (6) Not more than four bedrooms of the bed-and-breakfast residence shall be permitted to be used for transient residential purposes. Upon conversion of any portion of its floor area to a bed-and-breakfast residence establishment, the residential dwelling shall retain at least one bedroom for the exclusive use of the owner-occupants of the principal dwelling to which the bed-and-breakfast residence is accessory. The owner-occupants of the principal dwelling shall provide sufficient documentation to the Planning Board to demonstrate that adequate space has been reserved for the occupancy of the principal dwelling by the entire family of the owner-occupants.
 - (7) Room rental shall be strictly for transient usage. A limit of 14 days' stay shall be permitted.
 - (8) The sanitary and water supply systems serving the dwelling shall be adequate to meet the needs of the principal dwelling and bed-and-breakfast residence use combined. Where requested, the applicant shall submit documentation demonstrating such capacity in a form acceptable to the Planning Board.
 - (9) Adequate waste enclosure shall be provided to contain the solid waste generated by the principal dwelling and the bed-and-breakfast residence use.
 - (10) Parking shall be provided to meet the residence requirement and one additional space per each bed-and-breakfast room.
 - (11) Hard-surfaced walkways and stairs equipped with low-level lighting shall be provided from the parking area to the bed-and-breakfast residence entrance.
 - (12) If any outside recreation or any other exterior improvements exist or are planned to be constructed or used for the bed-and-breakfast residence use, the same shall be part of the site plan submitted for approval.
 - (13) Prior to the use of any portion of the residence as a bed-and-breakfast, a licensed professional shall make an inspection and the results shall be submitted to the Town Code Enforcement Officer. The Code Enforcement Officer (or his duly authorized representative) shall have the option of performing a site review of the area proposed for use as a bed-and-breakfast and shall determine if there are any code-related or other conditions which may prohibit such use.
- B. Bed-and-breakfast inn establishments are permitted as special permit uses in those zones indicated on the Table of Use/Bulk Regulations. Bed-and-breakfast inns are subject to site

plan approval and compliance with the following supplemental regulations:

- (1) The bed-and-breakfast inn is not required to be the principal residence of the owner-operator, although the same shall be permitted as part of an approved special permit use, at the owner-operator's option. However, in the event that such bed-and-breakfast inn does not serve as the principal residence of its owner-operator, the Planning Board shall require that adequate supervision be provided on site for such bed-and-breakfast inn use. The bed-and-breakfast inn shall provide a reception/office area, which area is not required to be a room that is dedicated solely to that purpose, provided that such area is not within the confines of a guest room.
- (2) The number of guest rooms permitted for rental for transient residential purposes in a bed-and-breakfast inn shall be limited to 14.
- (3) Bed-and-breakfast inns shall not be permitted in cases where physical road access is only to a private road. The driveway serving the bed-and-breakfast inn shall have direct physical access to a public road.
- (4) Full turnaround for the bed-and-breakfast inn shall be provided.
- (5) Room rental shall be strictly for transient usage. Limit of 14 days shall be permitted.
- (6) The sanitary and water supply system serving the use shall be adequate to meet its projected needs. As part of the application, sufficient information shall be furnished to demonstrate such capacity, in such form as acceptable to the Planning Board.
- (7) The site shall include adequate waste enclosure to contain all the solid waste generated by the bed-and-breakfast inn use.
- (8) Parking shall be provided to meet the residence requirement (where applicable), as well as one space per each (equivalent) full-time employee, plus 1.25 spaces per each bed-and-breakfast guest room or suite. Full interior turnaround shall be required for bed-and-breakfast inn parking.
- (9) Hard-surfaced walkways equipped with low-level lighting shall be provided from the parking area to the bed-and-breakfast inn entrance. As well, where required by the Planning Board, additional lighting for the parking area(s) shall be provided.
- (10) If any outside recreation or any other exterior improvements exist or are planned to be constructed or used for the bed-and-breakfast inn use, the same shall be part of the site plan submitted for approval.
- (11) Prior to the use of any portion of the residence as a bed-and-breakfast, a licensed professional shall make an inspection and the results shall be submitted to the Town Code Enforcement Officer. The Code Enforcement Officer (or his duly authorized representative) shall have the option of performing a site review of the area proposed for

use as a bed-and-breakfast and shall determine if there are any code-related or other conditions which may prohibit such use.

ARTICLE VII: PLANNED UNIT DEVELOPMENT

§ 300-30 Planned Unit Development Intent.

It is the intent of these planned unit development (PUD) regulations to provide flexible land use and design through the use of performance criteria on designated areas of land programmed for more intense and sophisticated uses of land within the Town and to incorporate a variety of residential use types with nonresidential uses containing privately owned sites and common property as a planned unit. Such a planned development is to be designed and organized so as to permit the site to function without necessarily requiring the supportive services of adjacent neighborhoods. This article encourages innovations in residential development so that the growing demands for housing for young married couples, senior citizens, and existing residents, who no longer wish to maintain a large one-family house because the family unit has been reduced in size due to minor children becoming emancipated, may be met by a greater variety of housing types, design and planning of structures with the incidental benefit of more efficient land use in such developments.

§ 300-31 Objectives.

In order to carry out the intent of this article, a planned unit development shall achieve the following objectives:

- A. A variety of housing types and ownership capabilities shall be provided, i.e., cooperatives, individual residences, condominiums with community facilities available to potential residents and rental apartments.
- B. Usable open space, recreational facilities and reservation for educational facilities shall be provided in accordance with Planning Board requirements.
- C. Accessory facilities may be located within the site where appropriate.
- D. Outstanding topographical, geological and water resource features of the site shall be preserved to the maximum.
- E. A creative and staged development of land shall be followed which allows for an orderly transition of land from vacant to occupied use.

§ 300-32 General design requirements and standards.

- A. Minimum area. The minimum area necessary to qualify for a planned unit development shall not be less than 50 contiguous acres of land; provided, however, that the owner of less than that amount can simultaneously apply for the residential provisions of a PUD where the land is adjacent to a proposed or constructed PUD.

- B. Ownership. The tract of land may be owned, leased or controlled by a single person, corporation or association of individuals or corporations. An application may be filed by the owner, jointly by the owners of all property to be included or by a person, persons, corporation or corporations with an option to buy said property. In the case of multiple ownership, a plan once approved shall be binding on all owners.
- C. Location of planned unit developments. Planned unit developments are special permit uses in all districts within the Town. Planned unit developments shall be served by public water and sewer service and shall meet the criteria for special permit approval set forth in Article XIV.
- D. Permitted uses. All uses within an area designated as a planned unit development are determined by the provisions of this article, subject to requirements of this chapter relating to computation of dwelling units. Such uses as may be approved are:
- (1) Residential uses. Residential uses may be of any variety and ownership, subject to Planning Board approval and the imposition of conditions to ensure the ongoing maintenance and care of common areas and obligations of the development.
 - (2) Accessory commercial, service and nonresidential uses. Accessory commercial, service and other nonresidential uses may be permitted or required in planned unit developments. Nonresidential developments shall be restricted to uses of a professional office and neighborhood commercial nature where such PUD is located in a residential use district. Nonresidential uses may be permitted in PUDs situate in an OLI District. Residential uses are permitted throughout the PUD.
- E. Residential development. Planned unit developments situated in residential districts shall be permitted the number of dwellings as follows:
- (1) The gross area of the land to be included in the PUD shall be calculated, and any land under water or otherwise precluded from development, such as easements, existing development, etc., shall be subtracted.
 - (2) The adjusted gross area of land from Subsection E(1) above shall be divided by the minimum area for single-family dwellings as set forth in the applicable district(s) to determine the basic number of units permitted.
 - (3) For planned unit developments incorporating planned residence development (multifamily), the following unit equivalency may be permitted, subject to the overall limitations set forth in Subsection D:

Bedroom Count	Equivalent Dwellings
0 (efficiency)	.25
1	.33
2	.50
3 or more	1.00

- (4) The Town Board may approve the transfer of dwelling unit credit to the PUD from noncontiguous lands in the same ownership within the Town of New Windsor, provided that such lands are placed in permanent open space uses and represent substantial open space resources for the community. Such credit may be calculated in the same manner as in Subsection E(1) above.

§ 300-33 Common property.

Common property in the PUD is a parcel or parcels of land and a privately owned road or roads, together with the improvements thereon, the use and enjoyment of which are shared by the owners and occupants of the individual building sites. When common property exists, the ownership of such common property may be either public or private, at the option of the Town Board. When common property exists in private ownership, the owners shall grant such easements over, under and through such property to the Town as are required for public purposes. Also, satisfactory arrangements must be made for the improvement, operation and maintenance of such common property and facilities, including private streets, drives, service parking and recreational areas, pursuant to § 300-16.

§ 300-34 Design standards.

Unless otherwise indicated in the resolution of special permit approval of the planned development, compliance with the following standards shall be required:

- A. Lot area and yard requirements. No minimum lot size, frontage or yard requirements within a planned unit development shall be required except those dictated by health, fire, safety, function and buffer considerations.
- B. Height limitations. No maximum limits on building height shall be required, except as provided in § 300-10 of this chapter.
- C. Streets. The arrangement, character, extent, width, grade and location of all streets shall be considered in relation to existing and planned streets and topography and to public convenience and safety and in their appropriate relation to the proposed uses of the land to be served by said streets. Whether private or public, said streets shall conform to all other street and road specifications of the Town.
- D. Access. All uses shall have access to a public or private street except residences, which need not front on a street but must have access thereto via a court, walkway or other area dedicated to public use or owned and maintained by a permanent resident nonprofit civic association or corporation.
- E. Building area. The location and arrangement of all structures shall be in harmony with the purposes of this special use. The location and arrangement of structures shall not be detrimental to existing or prospective adjacent development or to the existing or prospective

development of the Town.

- F. Boundary setbacks, buffer areas and transitional uses. Along the boundaries of a planned unit development, provision shall be made for a combination of uses and buffer areas which constitute a transitional separation between surrounding existing and prospective uses and the proposed development. All uses and structures in the planned unit development shall be required to provide a setback and/or buffer area from any zone district boundary or designated street line of any adjoining street at least equal to the least restrictive setback or buffer area required for any such uses or structures in the zoning districts in which they are permitted. If the existing use adjoining a planned unit development is industrial, the screening as required in this chapter shall be provided at the perimeter of the district where the proposed planned unit development is to be constructed, to screen such residential development from glare, uses or other influences having a potentially adverse impact on the planned unit development. Within the planned unit development, compatibly designed and transitional buffer areas and screening between uses and structures shall be provided.
- G. Off-street parking and loading requirements. The minimum off-street parking and loading requirements for any uses or structures in a planned unit development shall be at least equal to the minimal requirements stipulated for such uses or structures in this chapter.
- H. Special considerations. Multiple-residence structures shall conform to the design and density requirements of § 300-23.
- I. Additional site development standards. In addition to the standards set forth in this article, the applicant shall also comply with the appropriate design, site development plan and performance standards of this chapter and of Chapter 257, Subdivision of Land. Where a conflict between this article and any of the above exists, the former shall govern.

§ 300-35 Application procedure and approval process.

- A. General. Whenever any planned unit development is proposed, before any permits for the erection of a permanent building in such development shall be granted and before any subdivision plat or part thereof may be filed in the office of the County Clerk, the developer or his authorized agent shall apply for and procure approval of such planned unit development in accordance with procedures set forth in this section.
- B. Application to the Town Board for concept approval. The owner or prospective purchaser must make application to the Town Board for concept approval or rejection prior to the filing of a preliminary plan with the Planning Board. Application for concept approval shall be in a form sufficient to enable the Town Board to evaluate the planned unit development for compliance with the standards set forth for special permit approval in § 300-87 and shall include a written report as set forth in Subsection B(1) below. The Town Board shall refer the application for concept approval to the Planning Board for its review and report. The Town Board, upon concept approval, shall forward the approved application with any conditions to the Planning Board for consideration in the production of the preliminary plan. Concept approval shall continue in force so long as preliminary plan approval is diligently

pursued by the applicant. Preliminary plan review by the Planning Board shall be undertaken by the applicant within six months of concept approval unless such period is extended by the Town Board for an additional ninety-day period.

- (1) Report requirements. A written description of the area surrounding the planned unit district shall be submitted, demonstrating the relationship of the proposed site to adjoining uses, including:
 - (a) An explanation of the character of the planned district.
 - (b) Evidence that the proposal is compatible with the goals of the Town Comprehensive Plan.
 - (c) A market feasibility study and other possible study techniques showing the demand for the principal proposed uses within the proposed site.
 - (d) A cost benefit analysis or other similar study to review the relative estimated municipal costs, services and rates which might be anticipated for the development.
 - (e) General statements as to how common open space is to be owned and maintained.
 - (f) A proposed time schedule for development and, if staged, a general indication of how the staging is to proceed.
 - (g) The present ownership of all lands included within the proposed planned unit development.
 - (h) A circulation study both within the planned unit development and as it may affect the surrounding areas, including estimates of total automotive trips generated, peak-hour demand, present and anticipated traffic volumes, existing street capacities and other elements which may influence and be influenced by the proposed planned unit development.
 - (i) Evidence to demonstrate the applicant's competence to carry out the plan and his awareness of the scope of such a project, both physical and financial.
- (2) Report by Orange County Planning Board. Simultaneously with the application for concept approval, the Town Board shall submit a duplicate set of plans and reports to the Orange County Planning Board for its consideration pursuant to the General Municipal Law § 239-n.

C. Application for preliminary plan approval.

- (1) The developer shall submit a preliminary plan of the proposal to the Planning Board. The preliminary plan shall be approximately to scale, though it need not be so precise as

to consist of finished engineering drawings, and it shall clearly show the following information:

- (a) The location of various uses and their area.
 - (b) The general outlines of the main interior roadway systems and all existing rights-of way and easements, whether public or private.
 - (c) Delineation of the various residential uses, indicating for each such area its general extent, size and composition in terms of the total number of dwelling units and approximate percentage allocation by dwelling unit types (for example, single-family detached, duplex, townhouses, condominiums, and garden apartments), plus a calculation of the permitted dwellings and equivalency for planned residence use.
 - (d) The interior open space system.
 - (e) The overall drainage system.
 - (f) Existing and proposed contours at intervals of not more than 10 feet.
 - (g) A location map generally showing land use and ownership of abutting lands.
 - (h) A general statement as to how common open space is to be owned and maintained and a commitment that the Town shall be granted easement over all common open spaces and roads.
 - (i) If the project is to be staged by the owner, a general indication of how staging is to proceed.
- (2) The Planning Board shall review this preliminary plan and its related documents and shall, within 45 days thereafter, render either a favorable or unfavorable report to the Town Board.

D. Application for planned unit development special permit.

- (1) Upon receipt of a favorable or unfavorable report from the Planning Board, the Town Board shall set a date for a public hearing for the purpose of considering special permit approval for the applicant's plan in accordance with the procedures established under §§ 264 and 265 of the Town Law of the State of New York, said public hearing to be conducted within 62 days of the receipt of the report or decision of the Planning Board.
- (2) The Town Board shall refer the application, when applicable, to the County Planning Department as required by §§ 239-l and 239-m of the General Municipal Law, and the Town Board shall also refer the application to the Town Engineer if this has not been done by the Planning Board.

- (3) The Town Board shall give the County Planning Department, where such review is required, at least 30 days to render its report, and the Town Board shall render its decision within 62 days after the public hearing.

E. Site plan approval process.

- (1) Application for site plan approval. Application for site plan approval shall be referred to the Planning Board, in accordance with § 300-86D, within 90 days of special permit approval or as stipulated by the Town Board in its resolution of approval.
- (2) Requests for changes in the preliminary plan. If in the course of site development plan review it becomes apparent that certain elements as have been approved by the Town Board are not feasible, the Planning Board may resubmit to the Town Board its recommendations and the reasons for requesting the changes and, upon approval of the Town Board, a change to the preliminary plan may be made.
- (3) Action on the final detailed site plan application.
 - (a) Within 62 days of receipt of the complete application for final site plan approval, the Planning Board shall hold a public hearing in accordance with § 276 of the Town Law and render a decision to the applicant and so notify the Town Board within 62 days from the public hearing.
 - (b) Upon approving an application, and the applicant fulfilling all of the conditions and the posting of all required bonds, the Planning Board shall endorse its approval on a copy of the final site plan and shall forward the same to the Code Enforcement Officer who shall, upon payment of the requisite fee, issue a building permit to the applicant.
- (4) Staging. If the applicant wishes to stage his development and he has so indicated as per Subsection C(1)(i), he may submit only those stages he wishes to develop for site plan approval in accordance with his staging plans. In such application, he must submit the full plans required above for site plan approval and subsequently file the staging plans.

§ 300-36 Financial responsibility.

No building permit shall be issued for construction within a planned unit development until the required improvements are installed or until a certified check and performance bond in a form acceptable to the Town Attorney are posted in accordance with the procedures specified in § 277 of the Town Law relating to subdivisions.

§ 300-37 Site plan approval.

The site plan approval shall be governed by the provision of § 300-86E.

ARTICLE VIII: SIGNS

§ 300-38 Compliance required.

No sign (deemed to include any billboards, advertising displays, structures or similar devices) shall be erected, moved, enlarged or reconstructed except as expressly permitted in this article.

§ 300-39 Applications.

Applications to erect a sign within the Town shall be made to the Code Enforcement Officer upon a form provided by the Code Enforcement Officer and shall be accompanied by such information as may be required to assure compliance with all applicable federal, state and local laws and regulations. This information shall include but not be limited to the following:

- A. The name and address of the owner of the premises on which the sign is to be located.
- B. A clear and legible drawing, with a description and nominal dimension, showing the location of the sign which is the subject of the permit. Typical drawings may be as follows:
 - (1) For signs mounted on building facades: building elevation showing sign location, copy, dimensions and mounting details.
 - (2) For freestanding identification or directory signs: a site plan showing approximate sign locations and setbacks, elevation, copy and dimensions of the sign and details of the post and base assembly.

§ 300-40 Issuance of permit.

- A. The Code Enforcement Officer shall issue a permit for the erection, alteration or relocation of all signs within the Town, with the exception of exempt signs as defined herein, when the permit application is properly made and all appropriate fees have been paid.
- B. No permit for a sign issued hereunder shall be deemed to constitute permission or authorization to maintain an unlawful sign, nor shall any permit issued hereunder constitute a defense in an action to abate an unlawful sign. For purposes of determining the expiration date of any permit, the date of issuance of the permit shall be deemed the time at which the sign is erected or installed.

§ 300-41 Permit fee.

Application for permits shall be filed with the Code Enforcement Officer, together with the required permit fee. The amount of the fee shall be in accordance with the Standard Schedule of Fees of the Town of New Windsor.

§ 300-42 Appeal of permit denial.

When a sign permit application is denied by the Code Enforcement Officer, he shall give written notice of the denial to the applicant, together with a brief written statement of the reason or reasons for denial. Any appeal shall be taken to the Zoning Board of Appeals and shall be made to the Board in accordance with § 300-85.

§ 300-43 Permit exceptions.

The following operations shall not be considered as creating a sign insofar as requiring the issuance of a sign permit, but the signs must be in conformance with all other codes, electrical laws and regulations of the Town:

- A. The changing of the advertising copy or message on an existing approved painted or printed sign, marquee, changeable copy sign or a similar approved sign, whether electrical, illuminated, electronic changing message center or non-illuminated painted message, which are all specifically designed for the use of replaceable copy.
- B. The painting, repainting, cleaning or other normal maintenance and repair of a sign not involving structural changes. Replacement of the plastic face will be included as an exempt operation, provided that it is due to a change caused by breakage and/or deterioration of the face but not for the substitution of a new or different advertiser.
- C. Changes in the content of show window displays and permitted temporary signs with a valid permit.

§ 300-44 Required signs.

- A. Each residential and/or commercial building, structure or development in the Town shall be required to install satisfactory identification indicating the house (or building) number and, as applicable, name of the occupant or the location. This requirement shall be deemed necessary for health, safety and general welfare should an emergency incident occur. Required signs shall comply with the applicable provisions of this Code and shall be subject to the guidelines of the Town Emergency 911 Coordinator.
- B. All commercial parks and/or multifamily developments shall provide, where required by the Code Enforcement Officer, or as required by the Planning Board, a directory and directional sign intended to assist (guide) emergency response units to locations within the development. Such signs shall be subject to review of the Town Emergency 911 Coordinator and the officer and/or board requiring the installation.
- C. Fire prevention signage.
 - (1) Required signs shall also be provided and conform to the specific requirements of § 142-6 of Chapter 142, Fire Prevention, of this Code.
 - (2) For fire-fighting purposes, all existing fire walls that are not identifiable by the extension of the fire wall through the roof must be marked by a sign on the exterior wall of the

building at each end of the fire wall, in order to be seen by fire fighters. The sign is to read “fire wall here” and is to be clearly visible and unobstructed from view on the outside of the building. The sign shall be six inches in width and two feet in length. The sign is to be affixed to the exterior building wall under the soffit of the building.

- D. Installation of required signs under this section shall be exempt from permitting requirements.

§ 300-45 Permitted accessory signs.

A. Nonresidential zoning districts (AP, NC, HC, LC OLI, and PI).

(1) Freestanding signs.

- (a) For any nonresidential business site, permitted by right, by special permit or by variance, one freestanding, indirectly illuminated sign supported by an ornamental post or base set in the ground behind the property line or sidewalk line so as to be free of pedestrian traffic, not obstruct sight distance or otherwise pose a hazard or be a nuisance shall be permitted.
- (b) Such sign shall not exceed 64 square feet, total all faces, nor be more than 15 feet above ground level, measured from the top of the sign to the average ground level at the sign base.
- (c) Such sign shall not be illuminated in a manner so as to create a hazard or nuisance to traffic or adjoining properties.
- (d) If the site has two main vehicular entrances, the Planning Board may approve, at its discretion, one additional full-size freestanding sign at the second entrance, but in no case shall the signs be spaced closer than 300 feet (measured along the road frontage).

(2) Facade signs.

- (a) For any nonresidential business site, in addition to any permitted freestanding signs, one sign for each permitted business may be located on the building facade, with the sign face not to exceed 3.5 feet (height) and 12 feet (width), or 42 square feet of total surface area, whichever is greater.
- (b) If the building face (at the location where the facade sign is to be mounted) is greater than 300 feet from the street (property) line which it fronts, the maximum permitted height of the facade sign can be increased to 4.5 feet.
- (c) If a permitted business or establishment has more than one main building entrance, one additional full-size facade sign will be permitted, but in no case shall the additional sign be located on the same building face as the other permitted sign.

(3) Temporary signs.

- (a) Temporary signs, not to exceed 64 square feet, total all faces (unless otherwise specifically noted), may be displayed for not more than 45 consecutive days in any consecutive twelve-month period, except as permitted under Subsection A(3)(c) and (d) below.
- (b) One real-estate-type temporary sign shall be permitted for any structure for sale, lease or for rent, provided that such sign is located entirely on the property to which the sign applies, with such sign not to exceed six square feet, total all faces, and not to exceed six feet in height. Such use shall cease within 30 days after sale or rental is consummated.
- (c) One temporary subdivision or site plan development sign in connection with the marketing of lots or structures in a subdivision or site plan application shall be permitted, subject to the following conditions:
 - [1] Such permits may be issued for a period not to exceed one year for each permit, upon written application at least 30 days prior to its expiration.
 - [2] Legend. The sign may contain advertising in connection with the name of the subdivision, development, firm, building contractor or real estate sales firm and may refer to materials, appliances, supplies and building trades used in the construction of the dwelling units or services provided by the developer.
 - [3] No such sign shall be permitted to remain in one subdivision for the purpose of advertising the sale of lots or structures in another subdivision.
 - [4] Such signs are not to exceed 64 square feet, total all faces, nor be more than 15 feet above ground level, measured from the top of the sign to the average ground level at the sign base.
 - [5] The temporary development sign use shall cease within 30 days after the sale of the last subdivision lot or rental/sale of the last site plan structure/occupancy.
- (d) Temporary signs shall be placed on the property so as not to obstruct any pedestrian traffic, not obstruct sight distance nor otherwise pose a hazard or be a nuisance.
- (e) If illuminated, temporary signs shall be internally illuminated or, if directly illuminated, shielded to prevent glare or a nuisance and shall not include any flashing-type lights.

(4) Portable signs.

- (a) A new business, or a business in a new location, awaiting installation of a permanent

sign may utilize a portable sign for a period of not more than 60 consecutive days or within 30 days from installation of a permanent sign, whichever occurs first. One thirty-day extension will be permissible, if approved by the Code Enforcement Officer.

- (b) A portable sign is hereby defined as a sign, whether on its own trailer, wheels or otherwise, designed to be movable and not structurally attached to the ground, a building, a structure or another sign.
- (c) Portable signs shall be placed on the property so as not to obstruct any pedestrian traffic, not obstruct sight distance nor otherwise pose a hazard or be a nuisance.
- (d) If illuminated, portable signs shall be internally illuminated and shall not include any flashing-type lights.
- (e) Portable signs are not permitted other than for that use noted under Subsection A(4)(a) above.

B. Residential zoning districts (R-1, R-2, R-3, R-4, R-5 and the CL-1 Zones).

(1) Freestanding signs.

- (a) For any nonresidential business site or multiple-residence development permitted by right, by special permit or by variance, one freestanding, illuminated sign supported by an ornamental post or base set in the ground behind the property line or sidewalk line, so as to be free of pedestrian traffic, not obstruct sight distance, or otherwise pose a hazard or be a nuisance, shall be permitted.
- (b) For uses other than multiple-residence developments, such signs shall not exceed 20 square feet, total all faces, nor be more than six feet above ground level, measured from the top of the sign to the average ground level at the sign base. For multiple-residence developments, such signs shall not exceed 40 square feet, total all faces, nor be more than six feet above average ground level.
- (c) Such signs shall not be illuminated in a manner so as to create glare, a hazard or a nuisance to traffic or adjoining properties.
- (d) Accessory to permitted residences, one non-illuminated occupation or professional sign shall be permitted with an area not to exceed six square feet, total all faces, and not to exceed six feet above ground level.
- (e) If a multiple-residence development has more than one main vehicular entrance, the Planning Board may approve, at its discretion, additional full-size freestanding signs at the additional entrances, but in no case shall the signs be spaced closer than 300 feet (measured along the road frontage).

- (2) Facade signs. For any nonresidential business site, in addition to any permitted freestanding signs, one sign for each permitted business may be located on the building facade, with the sign face not to exceed four square feet.
- (3) Temporary signs.
 - (a) Temporary signs, other than real-estate-type signs and development signs, are not permitted in residential zoning districts.
 - (b) Real estate signs shall comply with Subsection A(3)(c) above.
 - (c) Development signs shall comply with Subsection A(3)(d) above.
- (4) Portable signs. Portable signs are not permitted in residential zoning districts.

§ 300-46 Prohibited signs.

The following types of signs or artificial lighting is prohibited:

- A. Billboards. (See definition in § 300-89).
- B. Flashing signs, including any sign or device on which the artificial light is not maintained stationary and constant in intensity and color at all times when in use, or signs including materials which move or appear to move.
- C. Signs which project over a public street or right-of-way.
- D. Signs which compete for attention with or may be mistaken for a traffic signal or signs which purport to be or are an imitation of or resemble an official traffic sign or signal or which bear the words "stop," "go slow," "caution," "warning" or similar words.
- E. The outlining by direct illumination of all or any part of a building, such as a gable, roof, side, wall or corner, except for temporary holiday lighting.
- F. Signs made of cardboard, paper, canvas or similar impermanent materials.
- G. Swinging signs.
- H. A-frame or sandwich board, sidewalk or curb signs, except as set forth in § 300-50Q of this article.
- I. Signs which bear or contain statements, words or pictures of an obscene, pornographic or immoral character or which contain advertising matter which is untruthful.

§ 300-47 Abandoned signs.

Such business signs that advertise an activity, business, product or service which is no longer conducted or available on the premises on which the sign is located shall be prohibited.

§ 300-48 Parking of advertising vehicles prohibited.

No person shall park any vehicle or trailer on a public right-of-way, public property or on private property so as to be visible from a public right-of-way if said vehicle or trailer has attached thereto, or located thereon, any sign or advertising device for the basic purpose of providing advertisement of products or directing people to a business or activity located on the same premises. This section is not intended to prohibit any form of vehicular signage, such as a sign attached to a bus or lettered on a motor vehicle, provided that such vehicles have current year registrations.

§ 300-49 Public areas.

No sign shall be permitted which is placed on public property or over or across any street or public thoroughfare, except as may otherwise expressly be authorized by this article.

§ 300-50 Exempt signs.

The following signs are exempt from the permit requirements set forth by this article, except that, where noted, size, quantity and other indicated limitations shall apply as indicated for the specific type of sign, and maintenance of all signs as described elsewhere in this article shall be required:

- A. One construction sign per construction project, not exceeding 10 square feet in area in residential zones and 30 square feet in area in nonresidential zones, provided that such signs shall be erected no more than 30 days prior to the beginning of construction for which a valid building permit has been issued, shall be confined to the site of construction and shall be removed no later than 30 days after completion of construction and/or prior to occupancy.
- B. Nonelectrical, non-illuminated, directional or instructional signs as reasonably necessary to provide direction or instruction and located entirely on the property to which they pertain, signs identifying rest rooms, public telephones or walkways or signs providing direction, such as parking lot entrance and exit signs and those of similar nature, except that, where the project is subject to site plan review, at the discretion of the Code Enforcement Officer, these signs may require application to the Planning Board for approval.
- C. Flags, emblems or insignia-type signs of any nation, state or political subdivision or corporate flag. The maximum permitted height for these type signs shall be 25 feet in residential zones and 35 feet in nonresidential zones. No more than three such signs (flags, emblems or insignia) in total shall be installed (displayed), unless the additional signs are approved by the Planning Board as an element of a site plan.
- D. Governmental signs for control of traffic and other regulatory purposes, street signs, danger signs, railroad crossing signs and signs of public service companies indicating danger and

aids to service or safety which are erected by or on the order of a public officer in the performance of his public duty.

- E. Temporary holiday decoration signs of a primarily decorative nature, clearly incidental and customary and commonly associated with a national, local or religious holiday.
- F. House numbers and nameplates (non-illuminated) for each residential dwelling unit, not to exceed two square feet, total all faces, indicating the name of the occupant and/or the location.
- G. Interior signs located within a building or stadium or within an enclosed lobby or court of any building and signs for and located within the inner or outer lobby, court or entrance of any theater.
- H. Memorial signs, tablets or plaques or names of buildings and dates of erection when cut into any masonry surface, inlaid or otherwise directly fastened to the building so as to be part of the building or when constructed of bronze or other noncombustible material.
- I. Notice bulletin boards not over 20 nominal square feet in area for medical, public, charitable, civil or religious institutions, where the same are located on the premises of said institutions.
- J. "No Trespassing" or "No Dumping" signs (or similar such signs) not to exceed 1 1/2 square feet in area per sign, spaced evenly along the property, spaced no closer than 250 linear feet, measured along the property line; however, in each case, one such sign will be permitted on each side of the property, regardless of spacing (separation).
- K. Public notices. Official notices posted by public officers or employees in the performance of their duties.
- L. Public signs (temporary or permanent) required or specifically authorized by any law, statute or ordinance, which signs may be of any type, number, area, height above grade, location, illumination or animation required by the law, statute or ordinance under which the signs are erected.
- M. Religious symbols, commemorative plaques of recognized historical agencies or identification emblems of religious orders or historical agencies, provided that no such symbol, plaque or identification emblem shall exceed four square feet in area, and provided further that all such symbols, plaques and identification emblems shall be placed flat against a building.
- N. Warning signs, alerting the public to the existence of danger but containing no advertising material, of a size as may be necessary, to be removed upon subsidence of danger.
- O. At gasoline stations and repair garages:
 - (1) Integral graphics or attached price signs on gasoline pumps, and graphics or company

identification on island canopies; however, the size or shape of the canopy shall not be modified to expand the same for purposes of additional signage use. This does not exempt canopies from the required reviews and approvals of the Code Enforcement Officer and Planning Board.

- (2) Two price, product or promotional signs, each not exceeding 12 square feet (total all faces) or six square feet per side, if located on the pump island, or set not closer than 10 feet from the edge of the roadway pavement, nor exceeding eight feet above grade, nor situated so as to impair visibility for pedestrians or motorists.
- P. Signs of a temporary nature erected as participation in approved public parades, public events or public celebrations. Such signs shall not be erected or otherwise displayed for more than a total of 10 days, nor three days after the event. Such signs shall not obstruct vehicular or pedestrian sight distance or movement nor otherwise create a nuisance.
- Q. Banners and related signs. In nonresidential districts, banners, flags, streamers, pennants and the like will be permitted as a special business opening promotion for a total period of 30 days on a one-time basis only. In residential districts in connection with an open house or model home demonstration for a new project, such banners, flags, streamers, pennants and the like shall be permitted for a total period of 15 days on a one-time basis per project or section of a project.

§ 300-51 Construction specifications.

All signs shall comply with the provisions of the New York State Uniform Fire Prevention and Building Code and the National Electrical Code, year of latest revision, and the additional construction standards hereinafter set forth in this section.

- A. Obstruction to exits. No signs shall be erected, constructed or maintained so as to obstruct any fire escape, required exit, window or door opening used as a means of egress.
- B. Obstruction to ventilation. No sign shall be attached in any form, shape or manner which will interfere with any opening required for ventilation, except that such signs may be erected in front of and may cover a transom when not in violation of the provisions of the Uniform Fire Prevention and Building Code.
- C. Clearance from high-voltage power lines. Signs shall be located in such a way that they maintain horizontal and vertical clearance of all overhead electrical conductors in accordance with National Electrical Code specifications, depending on voltages concerned. However, in no case shall a sign be installed closer than 24 inches horizontally or vertically from any conductor or public utility guy wire.
- D. Drainage. The roofs of all marquees shall be properly guttered and drained.

§ 300-52 Freestanding signs.

All freestanding sign structures or poles shall be self-supporting structures erected on or permanently attached to concrete foundations.

- A. Wind loads. All signs except those attached flat against the wall of a building shall be constructed to withstand wind loads as follows. (Note: The wind loads quoted below are normal averages and must be adjusted for areas subjected to unusually high-velocity winds, for signs of extraordinary height or for certain wind tunneling effects created by large buildings).

- (1) For solid signs: 30 pounds per square foot of the total face area of the letters and other sign surfaces.

§ 300-53 Sign anchoring.

No sign shall be suspended by chains or other devices that will allow the sign to swing due to wind action. Signs shall be anchored to prevent any lateral movement that would cause wear on supporting members or connections.

§ 300-54 Removal and disposition of signs.

- A. Maintenance and repair. Every sign, including but not limited to those signs for which permits or for which no permits or permit fees are required, shall be maintained in a safe, presentable and good structural, material condition at all times, including the replacement of defective parts, painting, repainting, cleaning and other acts required for the maintenance of said sign. The Code Enforcement Officer shall require compliance with all standards of this article. If the sign is not made to comply with adequate safety standards, the Code Enforcement Officer shall require its removal in accordance with this section.
- B. Abandoned signs. Except as otherwise provided in this article, any sign which is located on property which becomes vacant and unoccupied for a period of three months or any sign which pertains to a time, event or purpose which no longer applies shall be deemed to have been abandoned. Permanent signs applicable to a business temporarily suspended because of a change of ownership or management of such business shall not be deemed abandoned unless the property remains vacant for a period of six months or more. An abandoned sign is prohibited and shall be removed by the owner of the premises.
- C. Dangerous or defective signs. No person shall maintain or permit to be maintained on any premises owned or controlled by him any sign which is in a dangerous or defective condition. Any such sign shall be removed or repaired by the owner of the premises.
- D. Unlawful signs. No person shall erect, or permit to be erected on any premises owned or controlled by him, any sign which does not comply with the provisions of this article.
- E. Street improvement projects. Any sign projecting over a public right-of-way at the time of the effective date of this article (which sign was subject to removal or relocation at the

owner's expense pursuant to a permit or other local law of the Town) shall be removed by the owner or altered at the owner's expense to comply with the regulations of this article if, as the result of or after completion of a street improvement project, said sign does not or would not comply with the provisions of this article.

§ 300-55 Removal of signs by Town.

- A. The Code Enforcement Officer shall cause to be removed any sign that endangers the public safety, such as an abandoned, dangerous or materially, electrically or structurally defective sign or a sign for which no permit has been issued.
- B. The Code Enforcement Officer shall prepare a notice which shall describe the sign and specify the violation involved and shall state that if the sign is not removed or the violation is not corrected within 30 days, the sign shall be removed in accordance with the provisions of this section. All notices mailed by the Code Enforcement Officer shall be sent by certified mail, return receipt requested. Any time periods provided in this section shall be deemed to commence on the date of the mailing of the certified mail.
 - (1) For all signs, the notice shall be mailed to the owner of the property on which the sign is located as shown on the last equalized assessment roll. Any person having an interest in the property on which the sign is located may appeal the determination of the Code Enforcement Officer ordering removal or compliance by filing a written notice of appeal with the Zoning Board of Appeals within 30 days after receipt of the notice.
 - (2) In case of nuisance signs, which are clearly of a temporary and insubstantial value, including but not limited to paper, cloth, flags or cardboard signs affixed to telephone poles or stuck in the ground, the Code Enforcement Officer may remove such signs on the spot or direct the immediate removal of such signs without notice.
- C. In cases of emergency, the Code Enforcement Officer may cause the immediate removal of a dangerous or defective sign without notice.
- D. Any sign removed by the Code Enforcement Officer shall become the property of the Town and may be disposed of in any manner deemed appropriate by the Town. The cost of removal of the sign by the Town shall be considered a debt owed to the Town by the owner of the property and/or sign and may be recovered in an appropriate court action by the Town or by assessment against the property. The cost of removal shall include any and all incidental expense incurred by the Town in connection with sign removal.

§ 300-56 Legal nonconforming signs.

- A. Notification of nonconformance. After the enactment of this article, the Code Enforcement Officer shall, as soon as practical, survey the Town for signs which do not conform to the requirements of this article. Upon determination that a sign is nonconforming, the Code Enforcement Officer shall use reasonable efforts to so notify, either personally or in writing, the owner of the property on which the sign is located of the following:

- (1) The sign's nonconformity.
 - (2) Whether the sign is eligible for characterization either as legal nonconforming or unlawful.
- B. Signs eligible for characterization as legal nonconforming. Any sign located within the Town limits on the date of adoption of this article or located in an area annexed to the Town thereafter which does not conform to the provisions of this article is eligible for characterization as a legal nonconforming sign and is permitted, provided that it also meets the following requirements:
- (1) The sign was covered by the sign permit or variance on the date of adoption of this article, if one was required under applicable law.
 - (2) If no sign permit was required under applicable laws for the sign in question, the sign was, in all respects, in compliance with applicable law on the date of adoption of this article.
- C. Loss of legal nonconforming status.
- (1) A legal nonconforming designation may be lost in the event that:
 - (a) The sign is altered in any way in structure or copy (except for changeable copy signs or normal maintenance replacement due to damage, provided that the replaced portion is a duplicate of the original) which tends to or makes the sign less in compliance with the requirements of this article than it was before the alteration.
 - (b) The sign is relocated to a position making it less in compliance with the requirements of this article.
 - (c) The sign is replaced.
 - (2) On the happening of any of Subsection C(1)(a), (b) or (c), the sign shall be immediately brought into compliance with this article, with a new permit secured therefore, or shall be removed.
- D. Legal nonconforming sign maintenance and repair. Nothing in this section shall relieve the owner or user of a legal nonconforming sign, or the owner of the property on which the legal nonconforming sign is located, from complying with the provisions of this article regarding the safety, maintenance and repair of signs; provided, however, that any repainting, cleaning and other normal maintenance or repair of the sign or sign structure shall not modify the sign structure or copy in any way which makes it more nonconforming or the sign may lose its legal nonconforming status.

§ 300-57 Special exceptions.

- A. The intent of this section is to allow certain provisions of this article to be modified, where such modification will encourage excellence in the planning and design of signs. Nothing in this section, however, is intended to permit the erection or maintenance of signs which are prohibited by this article.
- B. In the event that any party wishes to construct or install a sign or signs other than as permitted in this article, that party shall be entitled to a hearing before the Zoning Board of Appeals. Governing rules for appeals and variances required by the Zoning Board of Appeals shall apply.

§ 300-58 Penalties for offenses.

Failure to comply with any provision of this article shall be punishable as provided in § 300-81 of this chapter. Noncompliance shall be deemed to have commenced the day after the final date of compliance set forth in an order from the Code Enforcement Officer.

ARTICLE IX: OFF-STREET PARKING

§ 300-59 General requirements.

Off-street parking spaces, open or enclosed, are permitted as accessory to any use subject to the following provisions:

- A. Schedule of parking requirements. Accessory off-street parking spaces, open or enclosed, shall be provided for any use as specified in § 300-60. Any land which is developed as a unit under single ownership and control shall be considered a single lot for the purpose of these parking regulations. Reasonable and appropriate off-street parking requirements for structures and uses which do not fall within the categories listed shall be determined by the Planning Board upon consideration of all factors entering into the parking needs of each such use.
- B. Areas computed as parking spaces. Areas which may be computed as open or enclosed off-street parking spaces shall include any private garage, carport or other area available for parking, other than a street or driveway. However, a driveway within a required front yard for a one-family or two-family residence may count as one parking space, other than on that portion of a corner lot which is subject to the provisions of § 300-11B(1).
- C. Size of spaces. Each parking space (stall) for automobiles shall have a minimum width of nine feet and a minimum length of 19 feet. Adequate aisle space shall be provided for standing area and maneuvering. Minimum aisle space shall be as follows: for ninety-degree angle parking, 25 feet; for sixty-degree angle parking, 18 feet; and for forty-five-degree angle parking, 15 feet. Additional requirements may be made of the applicant regarding reserved handicapped spaces and directions for vehicular circulation patterns. Painted delineation of spaces is required unless waived by the Planning Board.

- D. Access. Unobstructed access to and from a street with an internal turnaround area shall be provided. Such access shall consist of at least two ten-foot lanes for parking areas with 20 spaces or more. No entrance or exit for any off-street parking area of five or more spaces shall be located within 75 feet of any street intersection.
- E. Drainage and surfacing. All open parking areas shall be properly drained and all such areas shall be provided with a dustless surface, except for parking spaces accessory to a one-family or two-family residence.
- F. Joint facilities. Required parking spaces, open or enclosed, may be provided in spaces designed to serve jointly two or more establishments whether or not located on the same lot, provided that the number of required spaces in such joint facilities shall be not less than the total required for all such establishments.
- G. Combined spaces. When any lot contains two or more uses having different parking requirements, the parking requirements for each use shall apply to the extent of that use. Where it can be conclusively demonstrated that one or more such uses will be generating a demand for parking spaces primarily during periods when the other use or uses is not or are not in operation, the Planning Board may reduce the total parking spaces required for that use to the least requirement.
- H. Location and ownership.
 - (1) Required accessory parking spaces, open or enclosed, shall be provided upon the same lot as the use or uses to which they are accessory or may be provided elsewhere, provided that all spaces are located within 500 feet walking distance of such lot. The Planning Board may approve spaces located a distance greater than 500 feet, provided that alternative transportation or shuttle services are provided to the location of the use or uses, as a condition of the site plan. Such spaces may be required to be in the same ownership as the use to which they are accessory and may be subject to deed restrictions, approved by the Planning Board, binding the owner and his heirs and assigns to maintain the required number of spaces available either throughout the existence of the use to which they are accessory or until such spaces are provided elsewhere.
 - (2) In all cases, parking spaces shall conform to all the regulations of the district in which the parking spaces are located, and in no event shall such parking spaces be located in any residential district unless the use to which the spaces are accessory is permitted in a residential district, or upon the approval of the Planning Board.
- I. On lots divided by district boundaries. When a parking lot is located partly in one district and partly in another district, the regulations for the district requiring the greater number of parking spaces shall apply to the entire lot. Parking spaces on such lot may be located without regard to district lines, provided that no such parking spaces shall be located in any residence district, unless the use to which they are accessory is permitted in such district, or

upon approval by the Planning Board.

§ 300-60 Minimum off-street parking requirements.

- A. Regardless of zoning district, there shall be provided on the same site (or adjoining the site where permitted by the Planning Board) with any use off-street parking to meet or exceed the minimum requirements.
- B. Where any site or building shall include mixed uses of those listed, the parking shall be based on a sum of the parking required for each of the individual uses, as acceptable to the Planning Board.
- C. For any permitted use not specifically listed, there shall be provided reasonable and appropriate parking areas based on the highest anticipated parking required to meet maximum employee parking plus visitor and customer parking, as determined by the Planning Board.
- D. Minimum parking requirements are as follows:
 - (1) Single-family and two-family dwellings (including apartments): two spaces per dwelling. Garage (indoor) spaces are included in the count.
 - (2) Multiple dwellings, including workforce housing: 2.5 spaces per dwelling unit. Garage (indoor) spaces and driveway spaces to the units are included in the count. Additional spaces for accessory buildings such as clubhouses or other recreational facilities shall be required.
 - (3) Senior citizen housing: 2.5 spaces per dwelling unit. Garage (indoor) spaces are included in the count. Additional spaces for accessory buildings such as clubhouses or other recreational facilities shall be required.
 - (4) Bed-and-breakfast inns: parking spaces for the residential use plus 1.25 spaces per rental room.
 - (5) Reserved.
 - (6) Home occupation: a minimum of four, including the two required for the residential use, or more as determined by the Planning Board in connection with the special permit. Garage (indoor) spaces are included in the count for the residential use. Access to the home professional office spaces cannot be obstructed by any other spaces.
 - (7) Mobile homes: two spaces per unit.
 - (8) Recreation areas with no buildings: four spaces per acre, or as deemed appropriate by the Planning Board based on the proposed use.

- (9) Recreation areas with buildings: four spaces per acre of outdoor use, plus spaces as determined by the parking requirements for the building use, including but not limited to retail stores, restaurants and eating and drinking establishments (if permitted).
- (10) Fraternal, social and annual membership clubs: one space for each 300 square feet of total floor area, plus additional spaces as determined by the Planning Board for other accessory or principal uses.
- (11) Hunting preserves (as approved by the New York State Department of Environmental Conservation): as deemed appropriate by the Planning Board based on the proposed use.
- (12) Boat docks, marinas and related clubhouses: one for each two slips, plus the use of the building or clubhouse.
- (13) Buildings or open stands for the display of agricultural products: one for each 300 square feet of total floor area.
- (14) Hospitals, sanatoriums, and philanthropic and eleemosynary institutions: one space for each two beds, plus five spaces for each operating room and clinic suite.
- (15) Medical and dental clinics: one space per 175 square feet of total floor area.
- (16) Convalescence facility and nursing homes: one space per each four beds, plus one space per employee.
- (17) Undertaking establishments and funeral homes: 30 spaces per parlor or chapel.
- (18) Cemeteries: off-street standing area to accommodate 50 automobiles.
- (19) Railroad, public utility, radio and television transmission antennas and essential services: minimum one space, or one space per 300 square feet of total floor area or one space per employee, as determined by the Planning Board.
- (20) Churches and other places of worship: one space per each three-person seating capacity.
- (21) Schools (non-adult): one for each 12 seats for students or one for each four seats in auditoriums, whichever is greater.
- (22) Day-care centers: one space per employee, plus one space per five children. A turnaround shall be provided so that no vehicle is required to exit the facility by backing onto a public road.
- (23) Schools of special or private instruction: one space per each student, plus one space per employee, or one space per 200 square feet of total floor area, as determined by the Planning Board.

- (24) Dormitory: one space per resident.
- (25) Retail stores: one space per 200 square feet of total floor area.
- (26) Wholesale establishments or warehouses: one space for each two employees in the maximum work shift or one space for every 1,000 square feet of total floor area, or as deemed appropriate by the Planning Board based on the proposed use.
- (27) Shopping malls (exceeding 50,000 square feet of gross area): 4 spaces per 1,000 square feet of total floor area.
- (28) Service establishments and personal service establishments and shops: one space per 150 square feet of total floor area.
- (29) Theaters and cinemas: one space per 4 seats.
- (30) Banks: one space per 250 square feet of total floor area and a minimum of five cars stacking per drive-through lane.
- (31) Offices: one space per 200 square feet of total floor area.
- (32) Office complex (exceeding 20,000 square feet of total floor area per building): 4 spaces per 1,000 square feet of total floor area.
- (33) Laboratory or research offices: one space for each two employees in maximum work shift or one for each 400 square feet of total floor area, whichever is greater.
- (34) Restaurants, eating and drinking establishments and catering facilities: one space for each three-person seating capacity.
- (35) Motor vehicle sales: one space per 1,000 square feet of total floor area.
- (36) Vehicle service repair establishment and gasoline service stations: four spaces per service bay (400 square feet area of vehicle repair), plus one space for each 300 square feet of floor area outside of service area.
- (37) Automobile car wash facility: four spaces plus minimum stacking room for seven vehicles, as approved by the Planning Board.
- (38) Laundromats: one space per each four machines installed.
- (39) Dry-cleaning and laundry establishments: four spaces or one space per 1,000 square feet of total floor area, whichever is greater.
- (40) Commercial dog or veterinary clinics and kennels: one space per 175 square feet of total floor area.

(41) Hotels and motels: one space per rental room, plus additional spaces for conference rooms, restaurants, etc., based on one space per three-person seating capacity.

(42) Bowling alleys: five spaces per lane.

(43) Mini warehouses: five spaces for the office and management area, plus additional convenience spaces distributed on site as deemed appropriate by the Planning Board. Parking spaces cannot be used for vehicle, boat, RV or other storage.

(44) Light manufacturing and assembly: one per each two employees in maximum work shift or one per 400 square feet of total floor area, as deemed appropriate by the Planning Board.

(45) Libraries, museums and galleries: one space per 300 square feet of total floor area.

E. Fractional spaces shall be rounded to the next highest number.

F. The Planning Board, in its sole discretion, may modify the requirements of this subsection, upon (1) good cause shown, (2) a showing that such modified parking requirements will meet the needs of the proposed use, and (3) upon a showing and determination that such modification will not adversely affect the public health, safety, or welfare.

F. The Planning Board, in its sole discretion, may allow the use of shared parking amongst adjoining lots upon (1) good cause shown, (2) a showing that such modified parking requirements will meet the needs of the proposed use, and (3) upon a showing and determination that such modification will not adversely affect the public health, safety, or welfare. The use of shared parking may be conditioned upon the establishment of permanent cross-easements to ensure that future parking requirements are met despite any changes in ownership amongst the lot owners.

G. Land Banked Parking. Land banking allows for designating a portion of land on a site that would be required for parking to be held and preserved as open space, rather than constructed as parking. The Planning Board may permit land banking of up to twenty-five percent (25%) of the required parking spaces through the site plan review process, subject to the following.

(1) Sufficient evidence is provided by the applicant that supports the reduced parking needs;

(2) The area proposed for land banking of parking spaces must be an area suitable for parking at a future time;

(3) Landscaping of the land banked area must be in full compliance of the zoning regulations and, at a minimum, landscaped with turf or left in its natural state. As a result of the site plan review process, the Planning Board may require additional

landscaping of the land banked area;

- (4) The land banked area cannot be used for any other use and must be part of the same lot and all under the same ownership;
- (5) As part of the site plan review process, the applicant must show the area to be banked on the site plan and marked as “Land Banked Future Parking”; and
- (6) The Code Enforcement Officer, on the basis of increased parking demand for the use, may require the conversion of all or part of the land banked area to off-street parking spaces.

§ 300-61 Parking spaces adjacent to lots in any residence district.

- A. Wherever a parking area of over five spaces abuts or is within 15 feet of the side or rear lot lines of a lot in any residence district, said parking lot shall be screened from such adjoining lot by a substantial wall, fence or thick hedge, approved by the Planning Board. Generally such screen shall be not less than five nor more than eight feet in height.
- B. Whenever a parking area of over five spaces is located across the street from other land in any residence district, it shall be screened from the view of such land by a thick hedge, wall or fence approved by the Planning Board, located along a line drawn parallel to the street and a distance of five feet there from, such screening to be interrupted only at points of ingress and egress. In general, no such screening shall be less than three feet nor more than eight feet in height. Such fencing shall supersede the requirements of § 300-11(C)(1)(d). The open area between such screening and the street shall be landscaped in harmony with the landscaping prevailing on neighboring properties fronting on the same street. Two identification and directional signs located on the street side of such screening shall be permitted; however, they shall not exceed an area of three square feet each.

§ 300-62 Driveways.

No driveway shall provide access to a lot located in another district, which lot is used for any use, except residential, prohibited in the district in which such driveway is located.

§ 300-63 Commercial vehicles.

- A. One commercial vehicle not exceeding 25 feet in length may be parked on an occupied lot in any residence district, but not within the required yards of such lot. For purposes of this section, trucks or sport utility vehicles not exceeding 10,000 pounds shall not be deemed commercial vehicles.
- B. Commercial farm vehicles are permitted as accessory to a commercial farm use in any residence district.

§ 300-64 Trailers and boats.

- A. The storage or parking and use of a trailer by any person or persons is hereby prohibited in all districts, except that:
 - (1) One camping trailer or motor home may be stored, but not used for any purpose, on an occupied lot in any residential district.
 - (2) Where a building permit has been issued for the construction or alteration of a building, the Code Enforcement Officer may issue a temporary permit for one trailer for a period not to exceed six months. Said temporary permit may be extended for one additional period of six months if the Code Enforcement Officer finds that construction has been diligently pursued and that justifiable circumstances require such an extension.
- B. Not more than one boat per dwelling unit may be stored on an occupied lot in any residential district.

§ 300-65 Vans and boxes.

- A. The storage, parking or use for storage purposes or otherwise of an unlicensed or unregistered van, truck box, trailer box, trailer, truck, bus or other vehicle of any size, with or without wheels, is hereby prohibited in all districts. The storage, parking or use of any such object as of the effective date of this section shall not be deemed to be of such substantial nature as to warrant a preexisting use status for the object or the activity.
- B. Boxes. The use of drop-off or donation boxes shall be allowed in non-residential districts subject to approval by the Building Department and upon the following conditions:
 - 1. The lot owner provides written permission for the location of the box.
 - 2. The location of the box cannot consume or obscure off-street parking, and in no event can the location of the box reduce the amount of off-street parking to an amount less than that required.
 - 3. The box and its surroundings must be maintained and kept clear of debris, refuse or abandoned property.
 - 4. The box shall be removed if not in use.
 - 5. If the box is located on a lot that has received site plan approval from the Planning Board, then the Building Inspector may refer the proposal to locate a box on such lot to the Planning Board for its review and comment, and the Planning Board may, in its sole discretion, require an amendment to the approved site plan.
- C. The prohibitions and restrictions set forth in Section 246-3(C) shall also apply.

ARTICLE X: PERFORMANCE STANDARDS

§ 300-66 Conformance required.

Every use subject to performance standards shall conform to the restrictions set forth below.

§ 300-67 Hazardous materials.

All hazardous materials, except customary household items, including explosives and components are prohibited from being stored or kept overnight in residential areas. The use of such materials in other zones is covered by the New York State Uniform Fire Prevention and Building Code. For a definition of "hazardous materials," see the North American Emergency Response Guidebook, as amended.

§ 300-68 Electrical transmission and distribution.

The criteria for regulation of electrical transmission and distribution are governed by the New York State Public Service Law, Article VII.

§ 300-69 Air pollution.

No emission of fly ash, dust, fumes, vapors, gases or other forms of air pollution shall be permitted which can cause damage, injury or contamination to health, animals, vegetation or property, or which can cause soiling of paint on structures, equipment and vehicles.

§ 300-70 Liquid and solid wastes.

No discharge shall be permitted at any point into any private sewage disposal system, or into the street or the ground, of any materials in such a way or of such nature or temperature as can contaminate any water supply or otherwise cause the emission of dangerous or objectionable elements, except in accordance with standards approved by the State Department of Health or the County Health Department. No accumulation of solid wastes conducive to the breeding of rodents or insects shall be permitted. Discharges to public sewage disposal systems shall conform to the sewer regulations of the Town of New Windsor.

§ 300-71 Noise and illumination control.

- A. Purpose. It is hereby declared to be the policy of the Town of New Windsor to safeguard the right of its residents within the privacy of their residences and yards to be free from intrusive, unwanted sounds and lights. To resolve problems of noise and light which are disturbing to others, it is the policy of the Town of New Windsor and the purpose of this section to establish standards, variance procedures, enforcement procedures and penalties.
- B. Definitions. As used in this section, the following terms and phrases shall have the following meanings:

DECIBEL [dB or dB(A)] -- A unit for measuring the volume of sound, equal to 20 times the logarithm to the base 10 of the ratio of the sound pressure of the measured sound to a standard pressure of 20 micro-Newtons per square meter.

ILLUMINATION -- The lighting or floodlighting outside the confines of a structure, by means of electricity or the combustion of gases or liquids, of an area, object or structure.

SOUND LEVEL -- The sound-pressure level measured in decibels with a sound-level meter set to A-weighting, expressed in dB(A).

SOUND-LEVEL METER -- An instrument for the measurement of sound levels which conforms to Type 1 or Type 2 standards under ANSI Specification S 1.4-1971 or the latest approved revision.

SOUND-REPRODUCTION DEVICE -- Any electronic or electrical device that is used for the production of sound, including but not limited to any loudspeaker, radio, television, tape recorder or player, phonograph or any other sound-amplifying equipment.

UNREASONABLY INTRUSIVE -- Any sound or light which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of a reasonable person of normal sensitivities under the circumstances.

C. Prohibited activities, noise and illumination.

- (1) No person shall perform the following acts so as to produce sound or noise at a sound level exceeding the limitations set forth in Subsection D: operate any machinery (including construction machinery), equipment, pump, fan, air-conditioning apparatus, motorized lawn or gardening equipment, sound-reproduction device or any other device.
- (2) No person shall install any source of illumination or permit any source of illumination to be installed on his property in such a manner that direct rays are cast upon any residential property other than the lot on which such illumination is installed or otherwise violate the standards for illumination set forth in Subsection G.
- (3) No person shall cause or permit the engine of a motor vehicle, other than an authorized emergency or public utility motor vehicle, to idle for longer than five minutes while the motor vehicle is stationary on private property unless the engine is used to operate a loading, unloading or operating device.
- (4) No person shall perform any act which produces unreasonably intrusive sound or noise. Operation of any sound-producing or sound-reproduction device, including but not limited to stereos, radios, CD players and televisions, between the hours of 9:00 p.m. and 8:00 a.m. in such manner as to be plainly audible on adjacent properties, including apartments and co-op or condo units, at a distance of 50 feet shall be prima facie evidence of a violation of this subsection.

- (5) No burglar alarm or fire alarm shall be permitted to shriek for more than one hour without being silenced. In the event that a burglar alarm or fire alarm shrieks for more than one hour, any law enforcement or code enforcement officer shall take whatever measures are reasonably necessary to disengage the alarm. Any charges incurred by reason of the silencing or disengaging of the alarm by a commercial vendor shall be billed to the occupant or owner. In the event that the bill is not paid, the bill shall be assessed against the real property tax of the premises. Sound from an exterior burglar alarm of any building or motor vehicle shall terminate within 15 minutes after it has been activated.
- (6) No person shall sound any horn or signaling device on any automobile, motorcycle or other vehicle on any street or public place except as a danger warning, nor sound any such device for an unnecessary and unreasonable period of time, nor use any such device when traffic is for any reason held up.

D. Maximum sound levels; measurement standards.

- (1) Except for noise emanating from the operation of motor vehicles on public highways and private roads, the permissible intensity of noise for the foregoing between the hours of 8:00 a.m. to 10:00 p.m. and 10:00 p.m. to 8:00 a.m., respectively, whether such noise is intermittent, impulsive, sporadic or continuous, is as follows [the maximum sound-pressure level, i.e., A-scale reading of standard calibrated sound meter, instrument calibration frequency of 1,000 cycles per second (hertz)]:
 - (a) In the residential zoning districts of the Town:
 - [1] From 8:00 a.m. to 9:00 p.m.: 65 decibels.
 - [2] From 9:00 p.m. to 8:00 a.m.: 56 decibels.
 - (b) In the nonresidential zoning districts of the Town:
 - [1] From 8:00 a.m. to 10:00 p.m.: 80 decibels.
 - [2] From 10:00 p.m. to 8:00 a.m.: 70 decibels.
- (2) The measurement of any sound or noise shall be made with a sound-level meter using the A-weighted scale and slow response, except for sounds or noises which occur in single or multiple bursts with a duration of less than one second, for which fast response shall be used. The sound level determination or measurement shall be conducted not nearer to the sound source than the closest property line of the parcel on which such noise is generated, except where otherwise specified.

E. Noise from motor vehicles.

- (1) Noise emanating from the operation of motor vehicles on public highways is regulated by the New York State Vehicle and Traffic Law. The maximum noise levels set forth in the Vehicle and Traffic Law for the operation of motor vehicles on public highways, as they may be amended from time to time, are hereby designated to be the maximum permissible noise levels for the operation of motor vehicles on all private roads in the Town of New Windsor. When operated on other property, motor vehicles must conform to the standards set forth in Subsection D.
- (2) The operation of commercial vehicles for the pickup of garbage and refuse, such use being deemed an unreasonably intrusive operation, is hereby restricted to the hours of operation from 6:00 a.m. to 5:00 p.m.

F. Measurement of sound-pressure levels as evidence. Upon the trial of any persons charged with creating unreasonably loud, disturbing and unnecessary noise in violation of this chapter, the court may admit, in addition to the reasonable standard, evidence of sound-pressure levels in decibels as shown by a standard calibrated sound meter. For the purpose of this section, evidence that noise exceeding the maximum sound-pressure levels in decibels, as provided in Subsection D hereof, may be admitted as prima facie evidence that the noise was in violation of this chapter.

G. Illumination standards.

- (1) The area of brilliance, character, color, degree, density, intensity, location and of illumination shall be the minimum necessary to provide for the security of the property and the safety and welfare of the public.
- (2) All sources of illumination on nonpublic property, including the lighting of signs, shall be shielded or directed in such a manner that the direct rays adjacent are not cast upon any property used for residential purposes, other than the lot on which such illumination is situated.
- (3) Illumination shall be steady in nature, not flashing, moving or changing in brilliance, color or intensity, excluding the lighting of signs conveying public domain information, such as time and temperature.
- (4) The duration, period or time of illumination of nonresidential premises shall be the minimum necessary to provide for the security of the property and the safety and welfare of the public. For nonresidential premises open to the public, illumination shall be extinguished, except that necessary for the security of the property and safety of persons thereon, one hour after the premises is closed to the public.
- (5) Illumination connected or used with a sign or otherwise which competes for attention with or may be mistaken for a traffic signal or creates a distractive hazard to traffic by glare or movement is prohibited.
- (6) Illumination for all multi-family and nonresidential uses shall be subject to Planning

Board site plan approval.

H. Exceptions.

- (1) Nothing in this section shall be construed to prevent the production of music and light in connection with any military or civic parade, holiday festival or decoration, funeral procession or religious service.
- (2) This section shall not be construed to prohibit the use of any organ, bell, chimes or any other similar instrument or device by any church, synagogue or school on or within its own premises in connection with religious rites or ceremonies of such church or synagogue or in connection with a school education program.
- (3) For sound-reproduction devices used in connection with weddings, customary social gatherings or religious or civil ceremonies on any property used for residential purposes, sound levels in excess of those permitted in Subsection D are permitted, provided that such sound levels cease by 12:30 a.m.
- (4) Sounds created by customary operation of domestic tools shall be permitted, such as operation of lawn mowers, leaf blowers or chain saws, delivery of residential heating oil and engine tune-up activities, during the period from 8:00 a.m. to 9:00 p.m.
- (5) The following are also exempted from the limitations of this section:
 - (a) Sounds and light created by agricultural activities.
 - (b) Sounds created by construction activities during the period 7:00 a.m. to 7:00 p.m. weekdays and 8:00 a.m. to 6:00 p.m. Saturdays. No construction sounds are permitted on Sundays and legal holidays.
 - (c) Sounds and light created by any governmental agency by the use of public warning devices.
 - (d) Sounds created by public utilities in carrying out the operations of their franchise.
 - (e) Sounds and light connected with sporting events or celebrations of any school activity or other sanctioned activities, such as the New Windsor Little League, or occurring on municipal athletic fields or parks, and sounds connected with special events or sports programs sponsored or permitted by the Town Recreation Department.
 - (f) Safety signs, public road signs, streetlights and traffic direction signs and signals.
- (6) Sounds and light created by aircraft are regulated by the Federal Aviation Act and the regulations promulgated there under and are exempted from the provisions of this section.

- I. Variances. Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this section, the Town Zoning Board of Appeals shall have the power to grant a variance duly petitioned for by owners of properties in violation of this section in order to vary or modify the application of any of the regulations of this section, so that the spirit of this section shall be observed, the public health, safety and welfare secured and substantial justice done.
- (1) No variation or adjustment in the strict application of any regulations or provisions of this section shall be granted by the Town Zoning Board of Appeals unless it finds that:
- (a) The applicant has demonstrated good and sufficient cause for the granting of a variance. Such demonstration shall be founded upon a fair consideration of the circumstances present pertinent to the petition, including but not limited to:
- [1] The social utility of the use or activity for which a variance is sought.
- [2] The nature and degree of observed variance from prescribed standards that results from such use or activity.
- [3] The impact of such use or activity on other residents and properties, especially neighboring properties.
- [4] The nature and cost of available measures that may be taken to mitigate the impact of such use or activity.
- (b) There are unique or special circumstances or conditions, fully described in the findings of the Town Zoning Board of Appeals, applying to the activity or to the use of land, property or facilities for which the variance is sought which warrant the granting of the variance on the grounds of practical difficulty or unnecessary hardship.
- (c) The granting of a variance is necessary to enable the applicant to conduct the activity or use for which a variance is sought without unreasonable burden or restriction and the variance as granted by the Town Zoning Board of Appeals is the minimum adjustment that will accomplish such purpose.
- (d) The granting of the variance will be in harmony with the general purposes and intent of this chapter, will not be injurious to the community or any neighborhood or otherwise detrimental to the public health, safety or welfare and will not be in conflict with other laws or ordinances.
- (2) The Town Zoning Board of Appeals, in passing upon a petition for a variance under this section, may limit the effective period of any variance granted and may impose upon the grant or operation of any variance such conditions in furtherance of the public interest as the Town Zoning Board of Appeals finds necessary or appropriate.

(3) The Town Zoning Board of Appeals shall retain continuing jurisdiction over and with respect to any variance granted under this section, and it shall have the fullest powers and authority allowed by law to review, rehear, modify, reverse or annul, for good cause shown, any order, resolution, decision or determination made with respect to a petition for or the granting of a variance under this section. No such review, reconsideration or action shall be taken except upon and after notice and hearing.

- J. Relationship to other provisions. The provisions of this section shall in no case remove or render less restrictive limitations on noise generation, illumination or other conditions imposed for specific properties by actions of the Town of New Windsor Zoning Board of Appeals or by actions of the Town of New Windsor Planning Board or required under other applicable laws or regulations.
- K. Enforcement. The provisions of this section shall be enforced by the Police Department, the Town Code Enforcement Officer and other officials designated by the Town Board.
- L. Penalties for offenses. Any person who violates any provision of this section shall be subject to § 300-81 of this chapter.

§ 300-72 Odors.

No emission of obnoxious odors, gases and other odorous material shall be permitted which is destructive or offensive at or beyond the property line. Any process the site plan for which has been approved by the Planning Board, or for which a special permit has been issued, which may involve the creation or emission of any odors shall be provided with a secondary safeguard system so that control will be maintained if the primary safeguard system should fail.

ARTICLE XI: NONCONFORMING USES AND BUILDINGS

§ 300-73 Nonconforming uses.

- A. A nonconforming use is any use, whether of a building or tract of land or both, existing on the effective date of this chapter which does not conform to the use regulations of the district in which it is located.
- B. The following provisions shall apply to all non-residence uses existing on the effective date of this chapter which do not conform to the requirements set forth in this chapter and to uses that become nonconforming by reason of any subsequent amendment to this chapter.
 - (1) Nonconforming uses (non-residence). Any nonconforming uses of buildings or open land, except those specified in § 300-75 herein, may be continued indefinitely, but:
 - (a) Shall not be changed to another nonconforming use without a special permit from the Planning Board, and then only to a use which, in the opinion of said Board, is of

the same or a more restricted nature.

- (b) Shall not be reestablished if such use has been discontinued for any reason for a period of two years or more or has been changed to or replaced by a conforming use. Intent to resume a nonconforming use shall not confer the right to do so.
- (2) Except as provided in Subsection B(3) below, no building which houses a nonconforming use shall be:
 - (a) Moved to another location where such use would be nonconforming.
 - (b) Restored for other than a conforming use after damage, from any cause, of 100% of the replacement cost of such building, exclusive of foundations. Any such damaged building may be restored, but not enlarged, if application for a building permit is made within six months and the nonconforming use is reinstated within one year of such damage. If the restoration of such building is not completed within the provisions of § 300-77I, the nonconforming use of such building shall be deemed to have been discontinued, unless such nonconforming use is carried on without interruption in the undamaged portion of such building.
- (3) Extensions or remodeling of structures used for nonconforming uses. Notwithstanding any other provision of this chapter, a structure devoted to such nonconforming use may be extended to an extent not exceeding 30% of the building ground floor area or structure's footprint area existing at the time of the enactment of this chapter or any amendment thereto, and provided further that the Planning Board shall find that:
 - (a) Practical difficulties prevail in operating the premises or structures in the presently existing nonconforming manner and that the proposed extension or remodeling would constitute reasonable adjustment of the existing nonconforming use or remodeling will reduce the nonconforming use.
 - (b) The proposed extension will not have a deleterious effect on the neighborhood of the existing nonconforming use. In determining deleterious effect, the Planning Board shall take into consideration, among other things, traffic safety, nuisance characteristics, manner of operation, total ground area covered by the structure and the appearance and condition of the premises.
 - (c) The proposed extension or remodeling will not be more incompatible with or adversely alter the model and character of the neighborhood and neighborhood structures, nor prejudice the value of adjoining properties.
 - (d) Adequate or on-site parking and loading space will be provided for all potential users.
 - (e) The proposed extension or remodeling will not unduly restrict fire and police protection of the premises and of surrounding properties.

- (f) No prior extensions have been granted which result in the cumulative extension exceeding 30%.
- (4) Nothing in this section shall be deemed to prevent normal maintenance and repair of any building or the carrying out, upon the issuance of a building permit, of major structural alterations or demolitions necessary in the interest of public safety. In granting such a permit, the Code Enforcement Officer shall state the precise reason why such alterations were deemed necessary.
- C. Nonconforming residence use. Any residence use existing on the date of this chapter which does not conform to the use regulations set forth in this chapter or which becomes a nonconforming use by reason of any subsequent amendment shall be treated within the provisions of this chapter as if it were a use permitted by right and shall be exempt from the provisions above. Residential buildings not conforming to district regulations for lot area, width or depth; yards, height or lot coverage; or minimum livable floor area per dwelling unit shall, however, be subject to the provisions of §§ 300-74 and 300-75.

§ 300-74 Nonconforming buildings.

- A. A nonconforming building is any building which contains a use permitted in the district in which it is located but does not conform to the district regulations for lot area, width or depth; front, side or rear yards; maximum height; lot coverage; or minimum livable floor area per dwelling unit.
- B. Normal maintenance and repair, structural alteration, moving, reconstruction or enlargement of a nonconforming building is permitted, provided that such action does not increase the degree of, or create any new, nonconformity with regard to the regulations pertaining to such buildings.

§ 300-75 Nonconforming lots of record.

- A. A residential plot separated by other land not in the same ownership and nonconforming as to bulk on the date of enactment or the effective date of subsequent amendments to this chapter, whether or not located in and part of a subdivision, and approved by the Planning Board of the Town of New Windsor and filed in the office of the Orange County Clerk, which does not have a total plot area specified for residential use in § 300-10, may be used for any use permitted by right in the zoning district in which the plot is located, provided that such use complies with the bulk and area and yard regulations as specified in the highest residential district having the same or less plot width. Where such residential district requires certain utilities, the provision of such shall be prerequisite to its residential use.
- B. Two or more nonconforming subdivision lots, not in separate ownership, in a subdivision approved by the Planning Board prior to the effective date of this chapter shall have three years from the date of final approval by the Planning Board to obtain a building permit under the provisions of Subsection A. Any nonconforming plot in a subdivision finally approved by

the Planning Board more than three years prior to the effective date of this chapter shall not be eligible to receive a building permit, and said subdivision, part or plot thereof shall be resubmitted to the Planning Board in accordance with the applicable provisions of this chapter.

- C. Any plot in a subdivision approved by the Planning Board after the effective date of this chapter which conforms to the bulk, width and depth requirements of this chapter but which is made nonconforming as to bulk, width or depth by any future amendment of this chapter shall have three years from the effective date of the future amendment, or three years from the date of final approval, whichever is sooner, to obtain a building permit under Subsection A. Any subdivision plot for which a permit is applied for after the time periods specified herein shall conform to all the bulk regulations of this chapter, and Subsection A shall be inapplicable to such a plot.
- D. Any separate plot nonconforming as to bulk which becomes subsequently attached to other adjoining land in the same ownership shall be entitled to the benefit of the provisions of Subsection A only if the total contiguous plot remains nonconforming as to bulk after the plots become attached.
- E. A nonconforming residential lot, as described in Subsection A, which does not comply with the bulk, area and yard regulations as specified in the highest residential district having the same or less plot width may, nevertheless, be developed with a one-family residence only, provided that:
 - (1) Such lot shall contain not less than 5,000 square feet.
 - (2) Such lot is served by both municipal sewer and water.
 - (3) The proposed house shall contain not less than 1,000 square feet of livable floor area and have a building height not exceeding 30 feet.
 - (4) The front yard shall be at least 35 feet unless a smaller front yard is reasonable to conform to the building lines of adjacent lots.
 - (5) The rear yard shall be at least 40 feet.
 - (6) The lot shall have at least 50 feet of street frontage.
 - (7) Lots of widths of 50 feet and less than 80 feet may be developed with side yards on each side of at least 12 feet.
 - (8) Lots of widths of 80 feet and less than 100 feet may be developed with side yards on each side of at least 13 feet.
- F. It is the finding of the Town Board that the development of nonconforming lots not meeting the above criteria will blight the proper and orderly development and general welfare of the

community.

§ 300-76 Elimination of certain nonconformities.

- A. Each of the nonconforming uses specified herein is deemed sufficiently objectionable, undesirable and out of character in the district in which such use is located as to depreciate the value of other property and uses permitted in the district and to blight the proper and orderly development and general welfare of such district and the community to the point that each of such nonconforming uses shall be terminated on or before the expiration of the specified period of time after the effective date of this chapter, which period of time is specified for the purpose of permitting the amortization of the remaining value, if any, of such use:
- (1) In any district, any nonconforming use of open land, including such uses as a parking lot, trailer, junkyard or open storage yard for materials or equipment, may be continued for one year after the effective date of this chapter, provided that after the expiration of that period such nonconforming use shall be terminated.
 - (2) In any residence district, any billboard and any sign not of a type permitted, or of a permitted type but greater than the maximum permitted size, may be continued for one year following the effective date of this chapter, provided that after the expiration of that period such nonconforming use shall be terminated.
 - (3) In any nonresidential district, any billboard and any sign not of the permitted type but greater than the maximum permitted size may be continued for two years following the effective date of this chapter or the date on which such sign was previously nonconforming by virtue of prior zoning regulations, provided that after the expiration of that period such nonconforming sign shall be made conforming.
- B. An owner of premises containing any of the uses set forth in this section shall have the right to make application to the Zoning Board of Appeals for an extension of the amortization period. An extension period may be granted if the owner establishes that the amortization period set forth above is unreasonable. The Zoning Board shall have the power to grant a reasonable extension long enough to provide the owner with an opportunity to recoup his investment, although the extension need not be long enough to enable the owner to recover 100% of his investment, especially with respect to soft or incidental costs.

ARTICLE XII: ENFORCEMENT

§ 300-77 Building permits.

- A. No building or structure for which a building permit is required by state or local law or regulation shall be erected, constructed or restored or structurally altered without a building permit duly issued upon application to the Code Enforcement Officer. No building permit shall be issued unless the proposed construction or use is in full conformity with all the

provisions of this chapter, following full disclosure of the intended use. Every building permit shall be signed by the applicant, as well as the property owner if the property owner is not the applicant, and the signed application shall be evidence of the truthfulness of the information contained in the building permit. Any building permit issued under false pretenses by the applicant or in violation of the provisions of this chapter shall be subject to a stop-work order or an order to remedy violation issued by the Code Enforcement Officer. Any work undertaken or use which is not in conformity with this section shall be unlawful and discontinued until brought into compliance with this section. Service of process of a stop-work order or order to remedy violation shall be effective if served personally on the applicant, owner or agent at the work site or if sent to the applicant or owner by certified mail, return receipt requested, as well as by regular mail, or if sent by fax, provided that the fax number is printed on the letterhead of the addressee, applicant or owner in the ordinary course of its business.

- B. Every application for a building permit shall contain the following information and be accompanied by the required fee and by a plot plan drawn to scale and signed by the person responsible for such drawing. If no such plot plan is available, a survey, prepared by a licensed engineer or land surveyor, is required. Fees shall be in accordance with the Standard Schedule of Fees of the Town of New Windsor as may be adopted from time to time by resolution of the Town Board.
- (1) The actual shape, dimensions, radii, angles and area of the lot on which the building is proposed to be erected, or of the lot on which it is situated if an existing building.
 - (2) The section, plate, block and lot numbers as they appear on the latest tax records.
 - (3) The exact size and location on the lot of the proposed building or buildings or alteration of an existing building and of other existing buildings on the same lot.
 - (4) The dimensions of all yards in relation to the subject building and the distances between such building and any other existing buildings on the same lot.
 - (5) The existing and intended use of all buildings, existing or proposed, the use of land and the number of dwelling units the building is designed to accommodate.
 - (6) Such topographic or other information with regard to the building, the lot or neighboring lots as may be necessary to determine that the proposed construction will conform to the provisions of this chapter.
- C. No building permit shall be issued for the construction or alteration of any building upon a lot without access to a street or highway as stipulated in § 280-a of the Town Law. Such access shall consist of not less than a twenty-foot-wide permanent legal right-of-way, improved to the satisfaction of the Planning Board, to a public street.
- D. No building permit shall be issued for a lot in a subdivision requiring approval by the Planning Board unless the subdivision map has been properly filed in the office of the

County Clerk.

- E. No building permit shall be issued for any building where the site plan of such building is subject to approval by the Planning Board, except in conformity with the plans approved by said Board.
- F. No building permit shall be issued for a building to be used for any special permit use in any district where such use is subject to approval by the Planning Board unless and until such approval has been duly granted by the Planning Board.
- G. The building permit application and all supporting documentation shall be made in triplicate. Upon the issuance of a building permit, the Code Enforcement Officer shall return one copy of all filed documents to the applicant.
- H. The Code Enforcement Officer shall, within 10 days after the filing of a complete and properly prepared application, either issue or deny a building permit. If a building permit is denied, the Code Enforcement Officer shall, within five days of such motion, state in writing to the applicant the reasons for such denial.
- I. Every building permit shall expire if the work authorized has not commenced within six months after the date of issuance or has not been completed within 18 months from such date for construction costing less than \$1,000,000 or has not been completed within 30 months from such date for construction costing in excess of such amount. If no zoning amendments or other codes or regulations affecting subject property have been enacted in the interim, the Code Enforcement Officer may authorize in writing the extension of either of the above periods for an additional six months, following which no further work is to be undertaken without a new building permit.
- J. As soon as the foundation of a building or of any addition to an existing building is completed, and before first-story framing or wall construction is begun, there shall be filed with the Code Enforcement Officer an accurate survey, signed by the person responsible for said survey, showing the exact location of such foundation with respect to the street and property lines of the lot.
- K. No building permit shall be issued for any lot where the taxes for the roadway which is to be offered for dedication to the Town of New Windsor are unpaid, or for any lot in a subdivision in which any performance guarantee is insufficient, expired or otherwise in default.
- L. The Code Enforcement Officer may withhold a certificate of occupancy for any structure where the public improvements have not been completed to the satisfaction to the Town, or the performance guarantees for such improvements is insufficient, expired or otherwise in default, or there is a noncompliance with any stormwater requirements.

§ 300-78 Additional requirements for building permits.

- A. It is necessary that all building permits issued within the Town of New Windsor have

provided to the site of the construction proper and safe access for both construction vehicles and equipment, as well as emergency vehicles. To ensure this condition, the applicant/developer shall maintain access which will, at minimum, consist of a firm and unyielding gravel base to the site of the construction, capable of providing access to such vehicles as referenced herein.

- B. For proposed Town roadways, the access shall be constructed in accordance with the Street Specifications of the Town. Prior to the issuance of a building permit, the applicant/developer shall have completed an acceptable proof roll, as further described in the Street Specifications, and shall have installed the full sub base course and all related utility work necessary for the placement and acceptance of the roadway sub base course. Prior to the issuance of a certificate of occupancy, the applicant/developer shall have completed the first course of asphalt pavement for the roadway.
- C. For proposed private roadways, the access shall be constructed in accordance with the requirements for private roads as referenced in the Street Specifications. The applicant/developer shall have completed the base and choker courses of roadway structure for the full width prescribed.

§ 300-79 Certificate of occupancy.

- A. The following shall be unlawful until a certificate of occupancy shall have been applied for and issued by the Code Enforcement Officer:
 - (1) Occupancy and use of a building erected, reconstructed, restored, structurally altered or moved, or any change in the use of an existing building.
 - (2) Occupancy, use or any change in the use of any land.
 - (3) Any change in the use of a nonconforming use.
- B. No certificate of occupancy shall be issued for any special permit of a building or land requiring approval by the Planning Board for any land or use requiring site plan approval by the Planning Board unless and until such special permit use or site plan approval has been duly granted. Every certificate of occupancy for which special permit or site plan approval has been granted, or in connection with which a variance has been granted by the Zoning Board of Appeals, shall contain a detailed statement of any condition to which the same is subject.
- C. Application for a certificate of occupancy for a new building, or for an existing building which has been altered, shall be made on forms furnished by the Code Enforcement Officer, after erection of such building or part thereof has been completed in conformity with the provisions of this chapter. In the case of a new building, such application shall be accompanied by a survey prepared by a licensed land surveyor showing the location of all buildings as built. Such certificate shall be issued within 10 days after receipt of the properly completed application, but only provided that the application states that all requirements of

all other applicable codes or local laws in effect are complied with.

- D. If the proposed use is in conformity with the provisions of this chapter and of all other applicable codes and local laws, a certificate of occupancy for the use of vacant land or for a change of use of a nonconforming use shall be issued by the Code Enforcement Officer within 10 days after receipt of a properly completed application. If a certificate of occupancy is denied, the Code Enforcement Officer shall state the reasons in writing to the applicant.
- E. Remedies for violations after issuance of certificate of occupancy.
 - (1) After issuance of a valid certificate of occupancy, if there occur violations of state or local law or site plan approval or ZBA variance requirements for a period of five days, the Code Enforcement Officer may issue an order to remedy violation which shall set forth the section of the code which is being violated and which, if not corrected within the time specified, shall cause the Code Enforcement Officer to issue an appearance ticket in the Town of New Windsor Justice Court. In addition to that remedy, or alternatively, the Code Enforcement Officer may institute a proceeding in Supreme Court under Town Law § 268, Subdivision 2, or, where appropriate, the Code Enforcement Officer may apply to the Supreme Court under the provisions of Executive Law § 382.
 - (2) The services of any qualified experts employed by the Town to advise in establishing a violation shall be paid for by the violator, if a violation is proved, and otherwise by the Town. No new certificate of occupancy shall be issued unless such charges have been paid to the Town.
- F. A certificate of occupancy shall be deemed to authorize, and is required for, both initial occupancy and the continuance and use of the building or land to which it applies.
- G. Upon written request by the owner, and upon payment of the fee as set by the Town Board, the Code Enforcement Officer shall, after inspection, issue a certificate of occupancy for any building or use thereof or of land existing at the time of the adoption of this chapter, certifying such use (including the number of employees) and whether or not the same and the building conform to the provisions of this chapter.
- H. A record of all certificates of occupancy shall be kept in the office of the Code Enforcement Officer, and copies shall be furnished on request to any agency of the Town or to any persons having a proprietary or tenancy interest in the building or land affected.

§ 300-80 Duties of Code Enforcement Officer.

- A. The Building Inspector is hereby designated the Code Enforcement Officer. The Code Enforcement Officer shall have all of the powers and duties relating to the administration and enforcement of the New York State Uniform Fire Prevention and Building Code pursuant to Article 18 of the Executive Law of the State of New York, as the same may be amended from time to time, together with such rules and regulations as may be promulgated by the

New York State Secretary of State pursuant thereto. Additionally, the Assistant Building Inspector, Zoning Inspector, Assistant Zoning Inspector, Fire Inspector, Assistant Fire Inspector shall perform Code Enforcement duties under the coordination and supervision of the Code Enforcement Officer.

- B. The Code Enforcement Officer shall also have all of the powers and duties of the Sanitary Superintendent or the Sanitation Inspector relating to the administration and enforcement of Chapter 240, Sewers, Articles I, V and VII, of the New Windsor Town Code.

§ 300-81 Penalties for offenses.

- A. A violation of this article, and any failure to comply with an order to remedy after due service, and any violation of any requirement of this chapter or any statement, plan, application, permit or certificate approved or issued under the provisions of this chapter shall be considered an offense punishable by a fine of not more than \$350 or imprisonment for a period not to exceed six months, or both, for conviction of a first offense; and, upon conviction of a second offense both of which were committed within a period of five years, punishable by a fine of not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both; and, upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine of not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed six months, or both.
- B. If applicable, additional or alternative penalties may be as prescribed in New York State Executive Law § 382.
- C. Each week's continued violation under this section shall constitute a separate additional violation.
- D. Any unpaid Fire Inspection fees from inspections authorized by Section 300-80 and the enforcement of Section 381 of the New York State Uniform Fire Prevention and Building Code Act shall be collected by assessment and levy upon the lot(s) or parcel(s) of land whereupon such inspection(s) was/were performed and the fees so assessed shall constitute a lien and charge upon the real property on which they are levied until paid or otherwise satisfied or discharged and shall be collected in the same manner and at the same time as other Town Charges.

ARTICLE XIII: PLANNING BOARD AND ZONING BOARD OF APPEALS

§ 300-82 Planning Board.

- A. There is hereby created a Planning Board under New York State Town Law § 271. The Planning Board shall consist of five members who must be residents of the Town of New Windsor, and annual compensation shall be set by the Town Board each year.

§ 300-83 Membership of Zoning Board of Appeals.

Establishment and membership of the Zoning Board of Appeals shall be as follows:

- A. There shall be a Zoning Board of Appeals consisting of five members pursuant to the provisions of § 267 of the Town Law.
- B. Every member of the Zoning Board of Appeals, at the time of his appointment and throughout his term of office, shall be a resident of the Town of New Windsor.

§ 300-83.1 Alternate members of Planning Board and Zoning Board of Appeals.

- A. This section shall apply to the appointment, terms, functions and powers of alternate members appointed to serve on the Planning Board or Zoning Board in the Town of New Windsor.
- B. Definitions. As used in this section, the following terms shall have the meanings indicated:

ALTERNATE MEMBER -- An individual appointed by the Town Board of the Town of New Windsor to serve on the Town Planning Board/Zoning Board of Appeals when a regular member is unable to participate on an application or matter before the respective board, as provided herein.

MEMBER -- An individual appointed by the Town Board of the Town of New Windsor to serve on the Town Planning Board/Zoning Board of Appeals pursuant to the provisions of the local law which first established such Planning Board/Zoning Board of Appeals.

PLANNING BOARD -- The Planning Board of the Town of New Windsor as established by the Town Board of the Town of New Windsor pursuant to the provisions of § 271 of the Town Law.

ZONING BOARD OF APPEALS -- The Zoning Board of Appeals of the Town of New Windsor as established by the Town Board of the Town of New Windsor pursuant to the provisions of § 267 of the Town Law.

- C. Authorization and effect. The Town of New Windsor hereby enacts this section to provide a process for appointing alternate members of its Planning Board/Zoning Board of Appeals. These individuals would serve when members are absent or unable to participate on an application or matter before the respective board.
 - (1) Two alternate members for the Planning Board and two alternate members for the Zoning Board of Appeals shall be appointed by the Town Board of the Town of New Windsor for a term of five years.
 - (2) The Chairperson of the Planning Board/Zoning Board of Appeals may designate an alternate member to substitute for a member when such member is unable to participate on an application or matter before the board. When so designated, the alternate member shall possess all the powers and responsibilities of such member of the board. Such designation shall be entered into the minutes of the initial Planning Board/Zoning Board

of Appeals meeting at which the substitution is made.

- (3) All provisions of state law relating to Planning Board/Zoning Board of Appeals member eligibility, vacancy in office and service on other boards, as well as any provisions of a local law relating to training, continuing education, compensation and attendance, shall also apply to alternate members.

D. Statutory authority. This section is enacted pursuant to the Municipal Home Rule Law. This section shall supersede the provisions of Town Law to the extent it is inconsistent with the same, and to the extent permitted by the New York State Constitution, the Municipal Home Rule Law, or any other applicable statute.

§ 300-84 Powers and duties of Zoning Board of Appeals.

The Zoning Board of Appeals shall have all the powers and duties prescribed by law and by this chapter, which are more particularly specified as follows, provided that none of the following provisions shall be deemed to limit any power of the Board that is conferred by law:

- A. Interpretation. On appeal from an order, requirement, decision or determination made by an administrative official, or on request by an official, board or agency of the Town, to decide any of the following questions:
 - (1) Determination of the meaning of any portion of the text of this chapter or of any condition or requirement specified or made under the provisions of this chapter.
 - (2) Determination of the exact location of any district boundary shown on the Zoning Map.
- B. Variances. To authorize, upon appeal in specific cases, such use variances and area variances, as defined in § 267 of the Town Law, as will not be contrary to the public interest where, owing to exceptional and extraordinary circumstances, there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this chapter, subject to terms and conditions to be fixed by the Zoning Board of Appeals; provided, however, that no such use variance or area variance shall be granted unless the requirements of § 267-b of the Town Law have been met.
 - (1) The needs or desires of a particular owner or tenant or of a particular prospective owner or tenant shall not, either alone or in conjunction with other factors, afford any basis for the granting of a variance. The fact that the improvements already existing at the time of the application are old, obsolete, outmoded or in disrepair or the fact that the property is then unimproved shall not be deemed to make the plight of the property unique or to contribute thereto.
 - (2) Where said Board finds the zoning classification of a particular property to be conducive to the deprivation of the reasonable use of the land or buildings and where said Board finds the same condition to apply generally to other lands or buildings in the same neighborhood or zoning district, said Board shall call this condition to the attention of the Planning Board and Town Board.

- (3) In all cases where the Zoning Board of Appeals grants a variance from the strict application of the requirements of this chapter, it shall be the duty of such Board to attach such conditions and safeguards as may be required so that the result of its action may be as nearly as possible in accordance with the spirit and intent of this chapter.

C. Temporary certificate of occupancy.

- (1) To authorize, upon denial by the Code Enforcement Officer of a certificate of occupancy, the issuance of a temporary certificate of occupancy by the Code Enforcement Officer for a period not to exceed 90 days, for the completion of any alterations that are required under the provision of any law or ordinance or for the completion of a part of an uncompleted building, provided that the Board finds that:
 - (a) The denial of a certificate of occupancy prior to completion of said alterations or of the building would cause unnecessary hardship.
 - (b) The safety of the occupants of the building and of adjacent buildings and land would be adequately assured under such terms and conditions as said Board may prescribe.
- (2) Such temporary certificate shall not be construed as in any way altering the respective rights, duties or obligations of the owner or of the Town respective to the use or occupancy of the land or building or any other matter covered by this chapter.

§ 300-85 Procedures of Zoning Board of Appeals.

The powers and duties of the Zoning Board of Appeals shall be exercised in accordance with the following procedures:

- A. The Zoning Board of Appeals shall not decide upon any appeal for a variance or interpretation of this chapter without first holding a public hearing, notice of which hearing and of the substance of the appeal or application shall be given by publication in the official newspaper of the Town (at the applicant's expense) at least 10 days before the date of such hearing. In addition to such published notice, the applicant shall perform the following procedure:
 - (1) All applicants shall obtain a certified list of names and addresses of property owners which lie within 500 feet of any lot line of the property for which relief is sought that are required by this chapter or Chapter 257, Subdivision of Land, to be notified of a specific action.
 - (2) The applicant shall pay to the Town of New Windsor the appropriate fee for obtaining the aforesaid list of names and addresses from the Assessor.
 - (3) The applicant shall prepare the legal notice to be mailed to the property owners and shall present the legal notice to the proper Clerk of the Board for approval prior to mailing in

accordance with the procedures set forth above.

- (4) The applicant shall place the name and address on an appropriate-size mailing envelope, said address to be in the same form as on the Assessor's records. In the event that two or more parcels have identical ownership, only one notice shall be required to be mailed.
 - (5) The applicant shall place the legal notice in the envelope and affix the proper postage for first-class mail on the envelope and seal the same.
 - (6) The sealed, addressed, stamped envelopes shall be brought to the Town Hall and delivered to the appropriate Clerk that is responsible for the specific Board requiring the notice.
 - (7) The Clerk shall verify the names and addresses and compare the same to the certified mailing list supplied by the Assessor and shall thereafter deposit said envelopes in a United States postal depository within the Town of New Windsor. The Clerk shall execute an affidavit of mailing setting forth that said Clerk has compared all the envelopes addressed to the certified list supplied by the Assessor and also finds that the appropriate number of envelopes have been prepared. The affidavit shall also set forth that the Clerk has personally deposited the envelopes in a United States postal depository within the Town of New Windsor and set forth the date upon which said deposit was made.
 - (8) In the event that the property in question is located within 500 feet of cooperative residential or commercial site ("co-op") or residential or commercial condominium site, the applicant shall notify the board of managers of said condominium or the board of directors of the co-op site, whichever applies, rather than mailing notices to all individual owners of said co-op or condominium units, and this procedure shall be deemed sufficient notice to all property owners within the co-op or condominium site.
 - (9) Provided that due notice shall have been published and that there shall have been substantial compliance with the remaining provisions of this section, the failure to give notice in exact conformance herewith shall not be deemed to invalidate action taken by the Zoning Board of Appeals in connection with the granting of any appeal or variance.
- B. All appeals and applications made to the Zoning Board of Appeals shall be in writing and shall be accompanied by a fee of not less than the actual and necessary costs of advertising and holding a public hearing. The basic fee shall be as determined in the Standard Schedule of Fees of the Town of New Windsor as may be adopted from time to time by resolution of the Town Board. No fees shall be refundable.
- C. Each appeal or application shall fully set forth the circumstances of the case, shall refer to the specific provision of the chapter involved and shall exactly set forth, as the case may be, the interpretation that is claimed, the details of the variance that is applied for and the grounds on which it is claimed that the same should be granted.
- D. Should any appeal involve either of the two following conditions, the Secretary of the Zoning

Board of Appeals shall transmit to the designated office or official a copy of the official notice of the public hearing not later than 10 days prior to the date of the hearing:

- (1) Any change in the boundaries of any district, which change would occur within a distance of 500 feet of the boundary of any village or town, shall be submitted to the Village or Town Clerk.
 - (2) If the land involved in an appeal lies within 500 feet of any of the following areas, such application, accompanied by the notice of the public hearing, shall be forwarded to the Orange County Planning Department for review in accordance with the provisions of Article 12-B, §§ 239-1 and 239-m, of the General Municipal Law of the State of New York, at least 10 days prior to the public hearing:
 - (a) Municipal boundary.
 - (b) Existing or proposed county or state park or other recreation area.
 - (c) Right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway.
 - (d) Existing or proposed right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines.
 - (e) Existing or proposed boundary of any county- or state-owned land on which a public building or institution is situated.
- E. Prior to the date of any public hearing, the Secretary of the Zoning Board of Appeals shall transmit to the Secretary of the Planning Board a copy of any appeal or application, together with a copy of the notice of such hearing. The Planning Board may submit to the Zoning Board of Appeals an advisory opinion on said appeal or application at any time prior to the rendering of a decision by the Board of Appeals.
- F. All the provisions of this chapter relating to the Zoning Board of Appeals shall be strictly construed. Said Board, as a body of limited jurisdiction, shall act in full conformity with all provisions of law and of this chapter in compliance with all limitations contained therein.
- G. Unless a building permit is obtained within 12 months of the date of the granting of the application, the application shall become null and void.
- H. Records of decisions.
- (1) Every decision of the Zoning Board of Appeals shall be recorded in accordance with standard forms adopted by the Board, shall fully set forth the circumstances of the case and shall contain a full record of the findings on which the decision is based. Every decision of said Board shall be by resolution, and each such resolution shall be filed in the office of the Town Clerk by case number under one of the following headings,

together with all documents pertaining thereto:

(a) Interpretation.

(b) Variances.

(2) Regarding its decision in each case, the Zoning Board of Appeals shall notify the Town of New Windsor Code Enforcement Officer, Town Board, Town Planning Board and any designated official of any affected municipality or agency given notice of hearing as set forth in Subsection D.

I. When an appeal to the Zoning Board of Appeals has been duly processed and denied upon a vote by at least four members of the Board, said appeal shall not be eligible for reconsideration or rehearing for a six-month period following such denial, except that an application based on new facts or new considerations substantially different from those in the denied application may be eligible for reconsideration or rehearing within six months of the date of the denial of the original appeal.

ARTICLE XIV: SITE PLANS AND SPECIAL USE PERMITS

§ 300-86 Site plan review.

A. General applicability.

- (1) In all cases where this chapter requires approval of site plans, no building permit shall be issued by the Code Enforcement Officer except upon authorization of and in conformity with the plans approved by the Planning Board.
- (2) Except as otherwise required herein, no site plan approval shall be required for one- or two-family detached residences on a single lot or for additions, alterations or structures accessory thereto. All other principal uses and all conditional and accessory uses shall require site development plan approval prior to the issuance of a building permit.
- (3) A change of use shall require site plan approval where, in the judgment of the Building Inspector, there will be an increase in parking, traffic, water consumption, sewage effluent or other regulated activity.
- (4) The Planning Board, in its sole discretion, may waive site plan approval for any modification to a previously approved site plan that the Planning Board deems to be minor in nature; such minor modifications shall be deemed field changes subject only to review and approval by the Code Enforcement Officer.
- (5) No certificate of occupancy shall be issued unless all requirements of the site plan approval have been fully met.

(6) No lot or parcel of land shall be used except in conformity with an approved site development plan, when required.

B. Objectives. In considering and acting upon site plans, the Board shall take into consideration the public health, safety and welfare, the comfort and convenience of the public in general and of the residents of the proposed development and the immediate neighborhood in particular and may prescribe such appropriate conditions and safeguards as may be required in order that the result of its action shall, to the maximum extent possible, further the expressed intent of this chapter and the accomplishment of the following objectives in particular:

- (1) Traffic access. All proposed traffic access and ways are adequate but not excessive in number; adequate in width, grade, alignment and visibility; not located too near street corners or other places of public assembly; and other similar safety considerations.
- (2) Circulation and parking. Adequate off-street parking and loading spaces are provided to prevent the parking on public streets of vehicles of any persons connected with or visiting the use and the interior circulation system is adequate to provide safe accessibility to all required off-street parking lots.
- (3) Landscaping and screening. All playground, parking and service areas are reasonably screened at all seasons of the year from the view of adjacent residential lots and streets and the general landscaping of the site is in character with that generally prevailing in the neighborhood. Existing trees over eight inches in diameter measured three feet above the base of the trunk shall be retained to the maximum extent possible.
- (4) Restrictive covenants and easements, including conservation easements. Restrictive covenants and easements, in form and content acceptable to the Planning Board attorney and the Town Attorney, may be imposed on the site plan and required to be recorded by the Planning Board prior to approval. Restrictive covenants and easements shall be subject to enforcement by the Town of New Windsor and other parties in interest.
- (5) Stormwater detention basins, retention basins, and water quality ponds.
 - (a) The site plan shall comply with both Chapter 249 of the Town of New Windsor Code (“Stormwater Management and Stormwater Pollution Prevention”) and the New York State Department of Environmental Conservation regulations providing for control of stormwater. For site plans, the ownership and maintenance responsibility for stormwater detention basins, retention basins, and water quality ponds shall be made an obligation of the owner of the site. The improvement shall be located on the same lot as the other site plan improvements. It is not permissible to create a separate lot for the stormwater improvements.
 - (b) The following basin design criteria shall be incorporated into all basins and ponds:

- [1] Landscaping is required where buffers or screening is necessary, staggered white pine plantings and berms being deemed preferable for these situations.
 - [2] Maximum side slopes shall be 1:3 (vertical: horizontal).
 - [3] Fences may be required at the discretion of the Planning Board.
 - [4] The basin and outlet control facilities shall be designed and sized to result in a zero net increase in runoff from the site. In addition, concentration of discharges shall be avoided. The Planning Board shall have the option of modifying these requirements where adequate downstream excess stormwater capacity is demonstrated.
 - [5] All facilities shall be evaluated and designed based on five-year, ten-year and twenty-five-year storm frequency, unless otherwise required by NYSDEC regulation, and unless the site is greater than 320 acres. Sites greater than 320 acres shall be based on the aforementioned criteria, plus the fifty-year storm frequency.
6. The Planning Board may require fencing and retaining walls, and if required or provided, shall be of a design deemed acceptable for both aesthetics and structural stability by the Planning Board.

C. Effect of site plan approval.

- (1) No building permit shall be issued for any structure covered by this section until an approved site plan or an approved amendment of any such plan has been secured by the applicant from the Planning Board and presented to the Code Enforcement Officer.
- (2) No certificate of occupancy shall be issued for any structure or use of land covered by this section unless the structure is completed or the land is developed or used in accordance with an approved site plan or an approved amendment of any such plan.
- (3) The Code Enforcement Officer is hereby authorized to enforce all conditions of site plan approval.

D. Procedure.

- (1) Pre-submission conference. Prior to the submission of a site plan, the applicant shall meet in person with the Board. The purpose of such conference shall be to discuss proposed uses or development in order to determine which of the site plan elements listed in Subsection D shall be submitted to the Board in order for said Board to determine conformity with the provisions and intent of this chapter.
- (2) Within six months following the pre-submission conference, the site plan and application materials, together with the required fee from the Standard Schedule of Fees

of the Town of New Windsor, shall be submitted to the Secretary of the Planning Board in triplicate, and copies of all materials shall be distributed to the Code Enforcement Officer and Planning Board Engineer. Materials must be submitted to the Planning Board Secretary in proper form and number according to the schedule of meetings, workshops and submission deadlines as may be adopted by the Planning Board.

- (3) The Code Enforcement Officer and Planning Board Engineer shall report to the Planning Board whether the plan meets the requirements of all zoning law provisions and shall also make recommendations for modifications to the plan in order that the plan or amendment thereof shall be consistent with these regulations.
- (4) The Planning Board may require, on its own motion, that the applicant prepare alternative site plans or layouts, or prepare such studies or technical reports, where the submitted site plan does not meet the requirements or standards of these regulations. The Board may require that the applicant retain the services of independent consultants or specialists to prepare the alternative plans, layouts, studies or reports in support of his application. Any expenses incurred in the preparation of these materials shall be fully the responsibility of the applicant.
- (5) In certain cases where circumstances require during the review of an application, the Planning Board may retain their own special professional consultants to review plans or technical documents. Fees incurred for these consultants will be the responsibility of the applicant, and charged against the escrow deposit made for the application,.
- (6) A public hearing for site plan approval may be required by the Planning Board at its discretion. Upon receipt of such documents in proper form, the Planning Board shall fix the date for a public hearing on the proposed use. The applicant shall send notice of the public hearing stating the date, place and substance of the hearing to all owners of property abutting the proposed use and directly across any adjoining street as the names of said owners appear on the last complete assessment roll of the Town. The notice shall be in accordance with the notice provisions under § 300-85A.
- (7) The Board shall act to approve or disapprove any such site plan within 62 days after the meeting at which the same is submitted or within 62 days after the public hearing, if a public hearing is required, or the completion of the SEQRA process, whichever is later. Failure to act within 62 days following the closure of the public hearing or the completion of SEQRA, whichever is later, shall be deemed approval. Disapproval shall include written findings upon any site plan element found contrary to the provisions or intent of this chapter.
- (8) Amendments to a site plan shall be acted upon in the same manner as all site plan applications, per the procedure outlined in this section. If any amendment of a site plan is approved by the Board, all requirements or provisions of the original site plan shall remain in full force in effect, even if not specifically noted or referenced on the amendment site plan, unless such provision or provisions are specifically modified or eliminated by the Board as part of the amendment.

- (9) Waiver of required information. Upon findings by the Planning Board that, due to special conditions peculiar to a site, certain of the information normally required as part of the site plan is inappropriate or unnecessary or that strict compliance with said requirements may cause extraordinary and unnecessary hardships, the Board may vary or waive the provision of such information, provided that such variance or waiver will not have detrimental effects on the public health, safety or general welfare or have the effect of nullifying the intent and purpose of the site plan submission, Comprehensive Plan or this chapter.
- (10) Application for building permit. Within one year of the date of stamped site plan approval by the Planning Board, the applicant shall apply for a building permit or the approval of the site plan shall expire. However, the Planning Board may extend the time for application for a building permit a period not to exceed one additional year if, in its opinion, such action is warranted by the particular circumstances thereof.
- (11) Unless work is commenced and diligently prosecuted within one year, or within such time expressly stated by the Planning Board at the date of granting approval, said approval shall become null and void.
- (12) The Planning Board may require, as a condition of approval, that a performance bond or maintenance bond, or both, be posted with the Town in a manner set forth in Chapter 257, Subdivision of Land, to guarantee the installation of key site improvements and the upkeep of landscaping, screening and safety devices and to ensure the general cleanliness and proper housekeeping of the grounds and environs of the area approved pursuant to these regulations. Such performance bonds shall be maintained valid until all work is complete and accepted by the Town. Unless otherwise extended by the Planning Board, all work shall be completed within two years from the date of building permit. Maintenance bonds shall remain valid for a period of three years from the date of the certificate of occupancy of the completed site plan. All bond estimates shall be in a form and amount acceptable to the Planning Board engineer.
- (13) When any development of land is proposed to be made, and before any application for a building permit is made and before the erection of any structure within such proposed site plan shall commence, or any grading, clearing, construction, topographical alteration or any other improvements undertaken therein, the applicant or his duly authorized agent shall obtain the final approval of such proposed site plan in accordance with the procedures set forth in these regulations or shall obtain the specific approval for such grading, clearing, topographical alteration or other site improvements from the Planning Board.
- (14) Wherever in this Subsection C ("procedure") the term "pre-submission conference" is utilized, the same shall be understood to also include technical work sessions held with the Planning Board Engineer and other Town representatives as scheduled by the Board.

D. Site plan elements. The applicant shall cause a site plan map to be prepared by a professional

engineer, surveyor, architect or other design professional authorized under the New York State Education Law to prepare such a plan. The site plan shall include those of the elements listed herein which are appropriate to the proposed development or use as indicated by the Planning Board and its consultants in the pre-submission conference. During the pre-submission conference, the Board or its consultants shall consider the necessity of the preparation of separate plan sheets for certain elements of the plan, such as a general layout sheet showing existing and proposed uses on the site; a site grading and drainage sheet showing existing and proposed contours, as well as existing and proposed storm drainage improvements; and a lighting and landscaping sheet showing existing and proposed lighting sources and landscaping elements, or similar type plans. Unless otherwise acceptable to the Planning Board Engineer, all site plans shall be drawn to a scale of one (1) inch equaling thirty (30) or forty (40) feet.

(1) Legal data.

- (a) Section, block and lot numbers of the property, taken from the latest tax records.
- (b) Name(s) and address(es) of the owner(s) of record and the applicant, if different.
- (c) Name and address of person, firm or organization preparing the map.
- (d) Date, North point and written and graphic scales.
- (e) Sufficient description or information to define precisely the boundaries of the property. All distances shall be in feet and tenths of a foot. All angles shall be given to the nearest 10 seconds or closer. The error of closure shall not exceed one in 10,000. All plans shall identify the source of the boundary data (name of licensed surveyor who prepared the base plan and the date of the survey).
- (f) Locations, names and existing widths of adjacent streets and curb lines.
- (g) Locations and owners of all adjoining lands as shown on the latest tax records.
- (h) Location, width and purpose of all existing and proposed easements, setbacks, reservations and areas dedicated to public use within or adjoining the property.
- (i) Complete outline of existing deed restrictions or covenants applying to the property.
- (j) Existing zoning, school and special district boundaries.
- (k) An area location map, at a scale of no smaller than one inch equals 1,000 feet, showing adjoining public roads, railroads, major watercourses, schools, firehouses and any other landmarks to establish the location of the property.
- (l) A table showing the relationship between the existing and proposed uses of the property and the bulk requirements for the intended use in the zone in which the

property is situated in relation to the bulk requirements. Required and permitted values and specific proposed values shall be provided.

(2) Natural features.

- (a) Existing contours with intervals of two feet or less, referred to a datum satisfactory to the Board. Elevation values shall be labeled on all contours.
- (b) Approximate boundaries of any areas subject to flooding or stormwater overflows.
- (c) Location of existing watercourses, federal and state regulated wetlands and wetland buffers, marshes, wooded areas, rock outcrops, isolated trees with a diameter of eight inches or more measured three feet above the base of the trunk and other significant existing features.

(3) Existing structures and utilities.

- (a) Location of uses and outlines of structures drawn to scale and within 100 feet of the lot line.
- (b) Paved areas, sidewalks and vehicular access between the site and public streets.
- (c) Locations, dimensions, grades and flow direction of existing sewers, culverts and waterlines, as well as other underground and aboveground utilities within and adjacent to the property.
- (d) Other existing developments, including fences, landscaping and screening.

(4) Proposed development.

- (a) Location of proposed buildings or structural improvements.
- (b) Location and design of all uses not requiring structures, such as off-street parking and loading areas.
- (c) Location, direction, power and time of use for any proposed outdoor lighting or public address systems. Where deemed appropriate by the Planning Board, the applicant shall have prepared lighting intensity plans with isolux curves to depict the location of all lighting fixtures and the intensity of lighting in foot-candles.
- (d) Location, plans, elevations, details and the lighting provisions of any outdoor signs.
- (e) Location and arrangement of proposed means of access, ingress and egress, including sidewalks, driveways or other paved areas, and profiles indicating grading and cross sections showing the width of the roadway, the location and width of sidewalks and the location and size of water and sewer lines.

- (f) Proposed grading, screening and other landscaping, including types and locations of proposed street trees, shrubs and other vegetation.
 - (g) Location of all proposed waterlines, valves and hydrants, and of all sewer lines or alternate means of water supply and sewage disposal and treatment.
 - (h) Outline of any proposed easements, deed restrictions or covenants.
 - (i) Contemplated public improvements on or adjoining the property.
 - (j) If the site plan only indicates a first stage, a supplementary plan shall indicate ultimate development.
- (5) Information concerning the provisions of solar access to the building or buildings to be constructed on the site in accordance with the following criteria:
- (a) Site selection. In order to maximize solar access, the development should place highest densities on south-facing slopes. Lower densities should be sited on north-facing slopes.
 - (b) Street layout. Streets should be oriented on an east/west axis to the greatest possible extent. Orientation can vary up to 10° to the northwest and 25° to the southwest.
 - (c) Lot layout. Lots should be oriented north and south to the greatest extent possible.
 - (d) Building siting.
 - [1] The long axis of buildings on the site should be oriented east and west to the greatest possible extent. Building orientation may vary up to 10° to the northwest and 25° to the southwest of the east/west axis.
 - [2] Buildings should be sited as close to the north lot line or lines as possible to increase yard space to the south for better owner control of shading.
 - [3] Adjustments to front, side and rear lot lines, acceptable to the Planning Board, should be used when good solar access is not possible for single-family detached units on a particular site due to topography, property orientation or other salient factors.
 - [4] Tall buildings should be sited to the north of shorter buildings. Tall buildings shall be buffered from adjacent developments in the same manner.
 - (e) In selecting trees for landscaping, the mature height and canopy size should be considered to prevent shading of south walls of proposed buildings.

- (f) Aesthetics. If solar access systems are proposed for new construction, the applicant shall submit elevation drawings indicating the location, size and type of units proposed. The location, plan and elevation of all proposed round-mounted solar collectors shall also be submitted for review. In all cases, efforts shall be made to retain the existing aesthetic character of the neighborhood while providing the best possible location for such collector units on the site.
 - (6) Any other information deemed by the Board necessary to attain conformity of the site plan with the intent and regulations of this chapter.
 - (7) Electronic documents. Site plans and final as-built drawings shall be provided to the Chief Information Officer (CIO) of the Town of New Windsor in digital form acceptable to the CIO. PDF formatted electronic documents shall be acceptable only for pre-approval submissions.
- E. Expiration of site plan approval and application abandonment.
- (1) Following the approval of a site plan by the Planning Board, the applicant shall have 3600 days from the date of the adoption of the Board resolution approving the plan to satisfy all conditions and to secure the stamp and signature of the Planning Board Chairperson. In the event that the applicant does not satisfy the conditions and secure the stamp and signature within the three-hundred-sixty-day period, except as hereinafter set forth, the approval shall automatically expire. The applicant may apply to the Board for further extension(s) of the approval in order to satisfy all conditions of approval and to secure the stamp and signature of the Planning Board Chairperson. Any application for an extension must be in writing and set forth the basis for the request and must be received and approved by the Board during the time period within which the approval is still valid and in force. The Planning Board may, at its option, grant all permissible extensions at the time of the approval.
 - (2) The applicant shall have not more than 180 days from the date of the Planning Board Chairperson's signature on the site plan to secure a building permit for the construction of improvements on the site. In the event that the applicant fails to secure a building permit within the one-hundred-eighty-day period, the site plan approval shall expire. The applicant may apply in writing to the Board for a further extension which may be granted, if, in the Planning Board's opinion, such extension is warranted by the particular circumstances. The application must include the basis for the request. Any application for an extension must be received and approved by the Board during the time period within which the approval is still valid and in force.
 - (3) If no action has been taken on the application for one year and the application has not been an item on a regular agenda of the Planning Board during that one-year period, the Planning Board shall notify the applicant by ordinary first-class mail at the last known address of the applicant that unless some action is taken on the application within 60 days of the date of the notice, the application will be treated as abandoned, the application will be deemed disapproved and the file closed.

§ 300-87 Issuance of special use permits.

- A. Upon application and after public notice and hearing, the Planning Board, or the Town Board, whichever has the authority to issue the particular special use permit, may authorize the issuance by the Code Enforcement Officer of permits for any of the special permit uses for which this chapter requires such permits, in the district in which such use is proposed to be located. In approving any such use, the issuing Board shall take into consideration the public health, safety and welfare and the comfort and convenience of the public in general and of the residents of the immediate neighborhood in particular and may prescribe appropriate conditions and safeguards as may be required in order that the result of its action shall, to the maximum extent possible, further the expressed intent of this chapter and the accomplishment of the following objectives in particular:
- (1) That all proposed structures, equipment or material shall be readily accessible for fire and police protection.
 - (2) That the proposed use shall be of such location, size and character that, in general, it will be in harmony with the appropriate and orderly development of the district in which it is proposed to be situated and will not be detrimental to the orderly development of adjacent properties in accordance with the zoning classification of such properties.
 - (3) That, in addition to the above, in the case of any use located in or directly adjacent to a residential district:
 - (a) The location and size of such use, the nature and intensity of operations involved in or in connection therewith, its site layout and its relation to access streets shall be such that both pedestrian and vehicular traffic to and from the use and the assembly of persons in connection therewith will not be hazardous or inconvenient to nor conflict with the normal traffic of the neighborhood.
 - (b) The location and height of buildings, the location, nature and height of walls and fences and the nature and extent of landscaping on the site shall be such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings.
- B. Each application for a special use permit shall be accompanied by a proposed plan showing the size and location of the lot and the location of all buildings and proposed facilities, including access drives, parking areas and all streets within 200 feet of the lot.
- C. Any use for which a special use permit may be granted shall be deemed to be a conforming use in the district in which such use is located, provided that such permit shall affect only the lot or portion thereof for which such permit shall have been granted.
- D. The issuing Board may require reasonable conditions and may also require that special use permits be periodically renewed. Such renewal shall be granted following due public notice,

in accordance with the notice provisions under § 300-85A, and public hearing, and renewal may be withheld only upon a determination by the issuing Board that such conditions as prescribed by the issuing Board with the issuance of the original permit are no longer complied with. In such cases a period of 60 days shall be granted to the applicant to come into full compliance prior to the revocation of the special permit.

- E. The fee for special permits under this section shall be in accordance with the Standard Schedule of Fees of the Town of New Windsor as may be adopted from time to time by the Town Board.

ARTICLE XV: AMENDMENTS

§ 300-88 Procedure.

This chapter or any part thereof may be amended, supplemented or repealed from time to time by the Town Board on its own motion or upon recommendation by the Planning Board. Prior to public hearing, every such proposed amendment shall be referred by the Town Board to the Planning Board for a report. The Town Board shall not take action on any such amendment without such report from the Planning Board unless the Planning Board fails for any reason to render such report within 45 days following the date of referral. Any property owner may submit a petition to the Town Board requesting a zoning change, setting forth the reason for the requested change and paying the prescribed fee(s). The Town Board may require restrictive covenants in recordable form from a petitioner in connection with any zone change. (Note: See New York State Town Law § 265.)

- A. Report of the Planning Board. In making such report on a proposed amendment, the Planning Board shall make inquiry and determination concerning the items specified below:

- (1) Concerning a proposed amendment to or change in the text of this chapter:

- (a) Whether such change is consistent with the aims and principles embodied in the chapter as to the particular districts concerned.
- (b) Which areas, land uses, buildings and establishments in the Town will be directly affected by such change and in what way they will be affected.
- (c) The indirect implications of such change in its effect on other regulations.
- (d) Whether such proposed amendment is consistent with the aims of the Comprehensive Plan of the Town.

- (2) Concerning a proposed amendment involving a change in the Zoning Map:

- (a) Whether the uses permitted by the proposed change would be appropriate in the area concerned.

- (b) Whether adequate public school facilities and other public facilities and services, including roads, exist or can be created to serve the needs of any additional residences or other uses likely to be constructed as a result of such change.
 - (c) Whether the proposed change is in accord with any existing or proposed plans in the vicinity.
 - (d) The effect of the proposed amendment upon the growth of the Town as envisaged by the Comprehensive Plan.
 - (e) Whether the proposed amendment is likely to result in an increase or decrease in the total residential capacity of the Town and the probable effect thereof.
- B. Each petition for a zoning amendment shall be accompanied by a fee in accordance with the Standard Schedule of Fees of the Town of New Windsor as may be adopted from time to time by the Town Board. No fee shall be required for a petition filed in favor of or against a pending application.
- C. By resolution adopted at a meeting of the Town Board, the Town Board shall fix the time and place of a public hearing on the proposed amendment and cause notice thereof to be given in accordance with provisions of § 264 of Article 16 of the Town Law. All notices of public hearings shall specify the nature of any proposed amendment, the land or district affected, and the date, the time and the place where the public hearing will be held. At least 10 days' notice of the time and place of such hearing shall be published in the official newspaper.
- D. If any proposed amendment consists of or includes either of the following two conditions, the Town Clerk shall transmit to the Town Supervisor a copy of the official notice of the public hearing not later than 10 days prior to the date of the hearing:
 - (1) Any change in the boundaries of any district, which change would occur within a distance of 500 feet of the boundary of any village or town or a state or county road.
 - (2) Any change in the regulations prescribed for any district, any portion of which is located within 500 feet of the boundaries listed in Subsection D(1) above.
- E. If any proposed amendment consists of or includes any of the following conditions, the Attorney for the Town shall refer the proposed amendment to the Orange County Planning Board:
 - (1) Any change in the district classification of, or the regulations applying to, real property abutting or within 500 feet of:
 - (a) The boundary of any village or town.
 - (b) The boundary of any existing or proposed state or county park or other recreation

area.

- (c) The right-of-way of any state parkway, thruway, expressway or other controlled-access highway or county road or parkway.
 - (d) The right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines.
 - (e) The boundary of any county- or state-owned land on which a public building or institution is located.
- F. In the case of a protest against any amendment, such amendment shall not become effective except in accordance with the provisions of § 265 of Article 16 of the Town Law.
- G. In all cases where the Town Board shall approve an amendment to this chapter, said Board shall find that, for reasons fully set forth in said findings, such amendment is in conformity with the Comprehensive Plan for the community's development.
- H. Upon approval of a change to the Zoning Map, the Engineer for the Town shall be responsible for making the change to the Official Town Zoning Map and distributing copies to each department in the Town of New Windsor and for furnishing no fewer than 20 revised maps to the Town Clerk for sale. The Town Clerk shall maintain every map as revised in accordance with New York State Town Law § 265.
- I. All amendments to this chapter shall be subject to the provisions of the New York State Environmental Quality Review Act.

ARTICLE XVI: DEFINITIONS

§ 300-89 Word usage and definitions.

- A. Word usage. Words used in the present tense include the future; the singular number includes the plural, and the plural the singular; the word "person" includes a corporation as well as an individual; the word "lot" includes the word "plot." The term "occupied" or "used" as applied to any building shall be construed as though followed by the words "or intended, arranged or designed to be occupied or used."
- B. Unless otherwise expressly stated, the following terms shall, for the purpose of this chapter, have the meanings herein indicated:

ACCESSORY -- A building or use clearly incidental or subordinate to, and customary in connection with, the principal building or use on the same lot.

ACCOMMODATION UNIT -- Each bed, bunk, cot or other arrangement for sleeping by a single person or family.

AGRICULTURE or HORTICULTURE -- The cultivation of soil for food products or other useful or valuable growths in the field or garden, exclusive of facilities for display of products and marketing on the premises, whether wholesale or resale. "Agriculture" shall be deemed to also include poultry or livestock production or breeding and the raising of cattle for the purpose of milk production.

ALTERATION -- A change or rearrangement in the structural parts of a building, or an enlargement, whether by extending a side or by increasing the height of such building.

ANIMAL KENNEL -- Any building, structure or premises in which animals are kept, boarded or trained.

BASEMENT -- A story in a building, the structural ceiling level of which is four feet or more above the average level of the finished grade where such grade abuts the exterior wall of such building which fronts on any street, and the floor level of which is below the finished grade at any point on the periphery of the building.

BEDROOM -- The term "bedroom" refers to each additional room or 200 square feet of floor area in excess of space permanently allocated for kitchen, dining area, living area, bath facilities and storage spaces of less than 30 square feet in each such permanent storage space.

BILLBOARD -- A sign, including the type commonly known as a "billboard," which directs attention to a business, commodity, service, entertainment or attraction sold, offered or existing elsewhere than upon the same lot where such sign is displayed or only incidentally upon such lot.

BUILDING -- Any combination of materials forming any construction, except where entirely underground, so as to permit the use of the ground above the same as if no building was present; the term "building" shall include the term "structure" as well as the following:

- (1) Signs.
- (2) Fences.
- (3) Walls, other than retaining walls projecting above the ground not more than three feet at the higher ground level and not more than 6 1/2 feet at the lower ground level.
- (4) Radio and television receiving and transmitting towers and antennas, except for such antennas installed on the roof of a building and extending not more than 20 feet above the highest level of the roof of such building.
- (5) Porches, outdoor bins and other similar structures.

CELLAR -- Any space in a building, the structural ceiling level of which is less than four feet above the average finished grade where such grade abuts that exterior wall of such building which fronts on any street. A cellar shall not be considered in determining the permissible

number of stories.

CLUBHOUSE -- A building, structure, lot or land area used as a private club or social organization with annual membership dues or associated with a site plan development.

CODE ENFORCEMENT OFFICER -- A Town of New Windsor employee holding the position of Building Inspector. Additionally, the Assistant Building Inspector, Zoning Inspector, Assistant Zoning Inspector, Fire Inspector, Assistant Fire Inspector shall perform Code Enforcement duties under the coordination and supervision of the Code Enforcement Officer.

COMMERCIAL RECREATION FACILITY -- Any recreational facility in private ownership requiring compensation or admission fees for the use thereof, other than accessory to single-family residential uses.

CONVALESCENCE FACILITY -- A building facility utilized for the purpose of aiding or assisting the recovery of health and/or rehabilitation following sickness.

COURT, INNER AND OUTER -- Any unobstructed open area bounded on three or more sides by the walls of a building or buildings, not including any such area with no windows opening upon it except windows on a stairway. An inner court does not extend to a street or yard; an outer court extends to a street or yard.

COVERAGE, BUILDING -- The percentage of the area of a lot covered by a building or buildings.

COVERAGE, DEVELOPMENT -- The percentage of a lot covered by buildings, parking areas, accessory structures and any impervious materials.

CURB LEVEL -- The established elevation of the street grade at a point that is opposite the center of the wall nearest to and facing the street line.

DAY-CARE CENTER -- See "school of private instruction."

DOMESTIC ANIMALS -- Various species of animals such as cats, dogs, hamsters and the like which normally and conventionally board in residential dwellings. See also Town Code Chapter 96.

DOMICILE -- The legal residence of a person; the fixed, permanent and principal home for legal purposes.

DWELLING, ONE-FAMILY -- A detached building containing one dwelling unit only.

DWELLING, TOWNHOUSE -- A one-family dwelling with two common or party walls separating it from adjacent units on both sides.

DWELLING, TWO-FAMILY -- A detached building containing two dwelling units only.

DWELLING UNIT -- A building or entirely self-contained portion thereof containing complete housekeeping facilities for only one family, including any domestic servants employed on the premises, having no enclosed space (other than vestibules, entrance or other hallways or porches) or cooking or sanitary facilities in common with any other dwelling unit. A house trailer, a boarding or rooming house, convalescent home, fraternity or sorority house, hotel, inn and a lodging, nursing or other similar home or other similar structure shall not be deemed to constitute a dwelling unit.

ESSENTIAL SERVICE -- The erection, construction, alteration or maintenance, by public utilities or municipal or other governmental agencies, of underground, surface or overhead gas, electrical, steam or water transmission systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, light stations, telephone lines, hydrants and other similar equipment and accessories herewith reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for the public health, safety or general welfare.

FAMILY -- One or more persons occupying a dwelling unit as a single, nonprofit housekeeping unit, who are living together as a bona fide stable and committed living unit, being a traditional family unit or the functional equivalent thereof, exhibiting the generic character of a traditional family.

FLOOR AREA -- The sum of the gross horizontal areas of the several floors of the building or buildings on a lot measured from the exterior faces of exterior walls or from the center line of party walls separating two buildings, excluding cellar and basement areas used only for storage or for the operation and maintenance of the building.

FLOOR AREA, LIVABLE -- All spaces within the exterior walls of a dwelling unit exclusive of garages, breezeways, unheated porches, cellars, heater rooms and basements having a window area of less than 10% of the square-foot area of the room. Usable floor area shall include all spaces not otherwise excluded above, such as principal rooms, utility rooms, bathrooms, all closets and hallways opening directly into any room within the dwelling unit and all attic space having a clear height of six feet from finished floor level to the pitch of roof rafters, with a clear height of seven feet six inches from finished floor level to ceiling level over 50% of the area of such attic space.

FLOOR AREA RATIO -- The floor area in square feet of all buildings on a lot divided by the area of such lot in square feet.

GARAGE, PRIVATE -- An enclosed space for the storage of one or more motor vehicles, provided that no business, occupation or service is conducted for profit therein nor space therein for more than one car is leased to a nonresident of the premises.

GARAGE, REPAIR -- Any garage, other than a private garage, available to the public, operated for gain and which is used for the storage, repair, rental, greasing, washing, servicing, adjusting or equipping of automobiles or other motor vehicles.

GASOLINE SERVICE STATION -- A building or other structure or a tract of land used or heretofore used primarily for the servicing of motor vehicles. It shall signify a retail place of business engaged primarily in the sale of motor fuels, and also in supplying goods and services generally required in the operation and maintenance of motor vehicles, including the sale of petroleum products; sale and servicing of tires, batteries, automotive accessories and replacement items; washing and lubrication services; and the performance of routine automotive maintenance and repairs.

HEIGHT -- The vertical distance measured from the average elevation of the finished grade along the side of the structure fronting on the nearest street to the highest point of such structure, excluding a chimney.

HOME OCCUPATION -- Any occupation customarily conducted within a dwelling used for living purposes, which home occupation does not change the character of the structure as a residence. The home occupation must be incidental and secondary to the use of the dwelling for residential purposes. The activity shall not occupy more than 1/2 of the ground floor area of the dwelling or its equivalent elsewhere in the dwelling if so used. The home occupation must be carried on within the dwelling, including the basement or garage, and not in any accessory structure. The parking and storage of commercial vehicle requirements set forth in the Code shall be complied with. No more than two customer motor vehicles shall be parked on the premises or on the adjacent roadways at any one time. No exterior storage of materials and no exterior display or sign, other than a double-faced sign, 12 inches by 18 inches, shall be permitted; and no other exterior indication of the home occupation shall be permitted. No machinery or equipment not customarily in a dwelling shall be permitted, and no offensive odor, noise, vibration, smoke, dust, heat, light or glare shall be produced. There shall be no partner or associate in the practice of such home occupation, and it shall employ no more than one person and create no public nuisance. Home occupations shall not include, among others, the following: medical and dental clinics, restaurants or on-premises consumption food services, kennels or animal hospitals. The building shall conform to the New York State Uniform Fire Prevention and Building Code requirements.

HOSPITAL -- A building used for the diagnosis, treatment or other care of human ailments, unless otherwise specified. A hospital shall be deemed to include a sanatorium, clinic, convalescent home, nursing home, rest home or other building with an equivalent appellation.

HOTEL -- A building or buildings containing accommodation units for housing transient guests for compensation.

JUNKYARD -- Any area of land, including buildings thereon, which is used primarily for the collecting, storage and/or sale of wastepaper, rags, scrap metal or discarded material, or for the collecting, dismantling, storage or salvaging of machinery or vehicles not in running condition and for the sale of parts thereof. Two or more motor vehicles stored outside without current license plates for a period of 30 days shall constitute a junkyard.

LABORATORY -- A building used for experimentation in pure or applied research, design, development and production of prototype machines or of new products, and uses accessory

thereto, wherein products are not manufactured primarily for wholesale or retail sale, wherein commercial servicing or repair of commercial products is not performed and wherein there is no display of any material or products. A laboratory shall meet the same performance standards as non-nuisance industry.

LIVESTOCK -- Animals, including but not limited to domestic animals, such as sheep, horses, cattle and goats.

LOT -- Any parcel of land, not necessarily coincident with a lot or lots shown on a map of record, which is occupied or which is to be occupied by a building and its accessory buildings, if any, or by a group of buildings accessory thereto, if any, together with the required open spaces appurtenant to such building or group of buildings.

LOT AREA (GROSS) -- The total horizontal area included within the property lines of a lot, as calculated by a professional land surveyor licensed in the State of New York. Values listed within the Table of Use/Bulk Regulations are intended to reflect gross lot area requirements. [Also see "lot area (net)" for additional zoning requirements.]

LOT AREA (NET) -- The total horizontal area included within the property lines of a lot (as calculated by a professional land surveyor licensed in the State of New York), but specifically excluding areas of the lot covered by easements, rights-of-way, encumbrances, designated New York State freshwater wetlands (not including buffer areas), federal wetlands, or areas otherwise precluded from development. For zoning and subdivision compliance, all lots shall be required to have a minimum net lot area with a value equal to or exceeding 60% of the required gross lot area.

LOT, CORNER -- A lot at the junction of and abutting on two or more intersecting streets where the interior angle of intersection does not exceed 135°. A lot abutting a curved street shall be deemed a corner lot if the tangents to the curve at the points of intersection of the side lot lines with the street lines intersect at an interior angle of less than 135°.

LOT LINE -- Any boundary of a lot other than a street line.

LOT LINE, REAR -- The lot line generally opposite to the street line. If the rear lot line is less than 10 feet in length or if the lot comes to a point in the rear, the rear lot line shall be deemed to be a line parallel to the front lot line not less than 10 feet long lying farthest from the front lot line.

LOT WIDTH -- The average distance between side lot lines measured at the front yard setback line and measured at right angles to the side lot lines or along a parallel to the street. Said measurement shall be made along the public road, private road or shared commercial access right-of-way, whichever is applicable.

MAIN FLOOR -- The largest area found by the projection of a horizontal plane through the livable floor area which is enclosed by the exterior walls of the building.

MANUFACTURING -- Any process whereby the nature, size or shape of articles of raw materials is changed, or where articles are assembled or packaged in quantity.

MANUFACTURING, LIGHT -- Any process whereby the nature, size or shape of articles of raw materials is changed, or where articles are assembled such that no chemical or compressive processes are required and whose finished size does not exceed 40 cubic feet or weigh in excess of 2,000 pounds per unit.

MEDICAL AND DENTAL CLINIC -- Any facility in which two or more physicians and/or dentists practice cooperatively for the diagnosis and treatment of patients.

MEDICAL OFFICE -- A category of licensed medical professionals, including but not limited to medical doctors, dentists, opticians, optometrists, chiropractors, podiatrists, veterinarians and psychiatrists.

MEMBERSHIP CLUB -- An organization composed of people who voluntarily meet on a regular basis for a mutual purpose other than educational, religious, charitable, or financial pursuits.

MINI-WAREHOUSE -- A building separated into relatively small, lockable individual units, typically with a garage door-style opening, that provides storage. Units are typically rented month to month.

MOTOR VEHICLE -- A self-propelled device which includes automobiles, trucks, motor homes, motorcycles, all-terrain vehicles (ATVs), boats, jet skis, motorized jet skis and tractors.

MULTIPLE DWELLING -- A building or portion thereof containing three or more dwelling units.

NONCONFORMING BUILDING -- A structure lawfully existing at the effective date of this chapter, or any amendment thereto affecting such structure, which does not conform to the building regulations of this chapter for the district in which it is situated, irrespective of the use to which such structure is put.

NONCONFORMING USE -- Any use of a building or structure, lot or land, or part thereof, lawfully existing at the effective date of this chapter, or any amendment thereto affecting such use, which does not conform to the use regulations of this chapter for the district in which it is located.

OCCUPANT -- Person in possession or in control of premises or using the premises.

OFFICIAL MAP -- The Official Map, adopted and established by the Town Board, of that part of the Town outside of the limits of any incorporated village, showing the streets, highways, parks and drainage systems laid out on such map, including any references to more detailed maps and studies. The Official Map is final and conclusive with respect to the location and width of

streets, highways, drainage systems and parks shown thereon, and the Official Map is hereby declared to be established to conserve and protect the public health, safety and general welfare.

OWNER -- Person having title to premises.

OWNERSHIP, SAME -- Includes all vested or contingent interests of any person or his agent, representative, successor or assignee, irrespective of whether or not such interest is recorded, in the following circumstances:

- (1) Direct ownership by such person, or his or her child, parent, sibling or spouse of a sibling, heir or next of kin or agent, corporation, firm, entity, partnership or unincorporated association.
- (2) Property owned by different corporations, firms, partnerships, entities or unincorporated associations, in which such a person is a stockholder, a partner or associate or his or her child, parent, sibling or spouse of a sibling, heir or next of kin, or owns a ten-percent or greater interest in each corporation, firm, partnership, entity or unincorporated association.
- (3) When such person or his estate, successors or assigns, or any person or entity included in Subsections (1) and (2) of this definition, may be materially or substantively affected by the relief sought or by any determination made in any proceeding sought before any board, body, commission or agency of the Town of New Windsor, whether or not such person is a party to such application or proceeding and whether or not such person appears on the record of such proceeding.

PARKING AREA -- A lot or part thereof used for the storage or parking of motor vehicles, with or without the payment of rent or charges in money and/or other consideration.

PARKING SPACE -- A stall or berth which is arranged and intended for the parking of one motor vehicle in a garage or parking area.

PERSON -- Any individual, firm, company, association, society, corporation or group.

PERSONAL SERVICE ESTABLISHMENT -- Personal service uses which involve touching or near touching of the body, such as barbershops, beauty shops, tailor shops, tattoo establishments, masseurs and physical therapy; as well as uses involving the mind such as psychologist, counselor, social worker and diet counselor.

PREMISES -- A lot, plot or parcel of land, including the building or structures on it.

PRINCIPAL BUILDING -- A building in which is conducted the main or principal use of the lot on which said building is located. Where more than one use is on a lot, the lower or more intense use of the lot shall be considered the principal use.

PUBLIC WATER AND PUBLIC SEWER -- Sewage disposal and water supply systems owned, operated and maintained by the Town.

QUARRY AND EXCAVATION OPERATIONS -- Any place where stone, sand, gravel, minerals or other natural material, except topsoil, is removed for the purpose of sale or any other commercial purpose other than such as may be incidental to excavating or regrading in connection with or in anticipation of building development or landscaping on the site.

RECREATIONAL FACILITIES -- Places for leisure activities open to the public, including but not limited to golf courses, tennis courts, ice-skating rinks, swimming pools, lakes, beaches, play fields, ski areas, amusement parks, drive-in theaters, museum villages, golf driving ranges, racetracks, gymnasiums, martial art studios and sport complexes.

RESIDENT -- A person who dwells or lives in premises for a prolonged and continuous period of time; not necessarily the person's place of domicile, although it may be. A person may have more than one residence, but only one domicile.

RETAIL SALES -- The sale of consumer goods primarily in an indoor over-the-counter location, not including used car sales.

SCHOOL OF PRIVATE INSTRUCTION -- Any nonpublic school conducting a regularly scheduled curriculum or program of scheduled activities, including but not limited to technical, vocational or computer schools, martial arts studios, aerobics classes, gymnastics classes, weight control centers and duly licensed nursery schools and duly licensed day-care centers.

SCHOOL OF SPECIAL INSTRUCTION -- Any nonpublic school conducting a regularly scheduled comprehensive curriculum of study and operated by non-stock corporations under the Education Law of the State of New York.

SERVICE ESTABLISHMENT -- A place of business offering consumer services, including but not limited to day-care centers, dry cleaners, art studio, schools of instruction, teaching music and dancing, computer services, martial arts, diet centers, secretarial schools, equipment operation schools, funeral parlors, theaters, bicycle and specialty shops, but excluding motor vehicle service and repair, and car washes.

SIGN -- Any structure or part thereof, or any device attached to a building or painted or represented thereon, which shall display or include any letter, word, model, banner, pennant, insignia, device, trade flag or representation which is in the nature of or which is used as an announcement, direction or advertisement for commercial purposes or otherwise. A sign includes a billboard and a neon tube, string of lights or similar device outlining or hung upon any part of a building or lot, but does not include the flag or insignia of any nation or group of nations, or of any governmental agency, educational, charitable, philanthropic, civic, professional, religious or like campaign, drive, movement or event. Excluded from this definition are signs which are solely devoted to prohibiting trespassing, hunting or fishing.

SIGN AREA -- Includes all faces of a sign measured as follows:

- (1) When such sign is on a plate or framed or outlined, all of the area of such plate or the area enclosed by such frame or outline shall be included.
- (2) When a sign consists only of letters, designs or figures engraved, painted, projected or in any manner affixed on a wall, the total sign area of such sign shall be measured by taking the limits or corner extremities of the letters or other elements and measuring the area contained within such limits or corners

SIGN WALL AREA -- The area of a building wall fronting on a street not including doors and windows.

SIGN, TEMPORARY -- A sign that is: (1) intended for a temporary period of posting on public or private property; (2) typically constructed from nondurable materials, including paper, cardboard, cloth, plastic, and, or wallboard; and (3) does not constitute a structure subject to the Town's building code or zoning law provisions.

SOLID WASTE -- Useless, unwanted or discarded material with insufficient liquid content to be free flowing.

- (1) **AGRICULTURAL** -- Solid waste that results from the raising and slaughtering of animals and the processing of animal products and orchard and field crops.
- (2) **COMMERCIAL** -- Waste generated by stores, offices and other activities that do not actually turn out a product.
- (3) **INDUSTRIAL** -- Waste that results from industrial processes and manufacturing.
- (4) **INSTITUTIONAL** -- Waste originating from educational, health care and research facilities.
- (5) **MUNICIPAL** -- Residential and commercial solid waste generated within a community.
- (6) **PESTICIDE** -- The residue from the manufacturing, handling or use of chemicals intended for killing plant and animal pests.
- (7) **RESIDENTIAL** -- Waste that normally originates in a residential environment (sometimes called "domestic solid waste").

STORY -- That part of any building, exclusive of cellars but inclusive of basements, comprised between the level of one finished floor and the level of the next higher finished floor, or if there is no higher finished floor, then that part of the building comprised between the level of the highest finished floor and the top of the roof beams.

STREET -- A street, improved to the satisfaction of the Planning Board, which is one of the following: an existing Town, county or state highway or street; a street shown on an approved

subdivision final plat; a street shown on a map filed with the County Clerk (in accordance with § 280-a of the Town Law) prior to Planning Board authorization to review subdivisions; or a street shown on the Official Map of the Town.

STREET LINE -- The line between the street and a lot, or a line established by the Official Map as the street right-of-way, whether or not in public ownership.

STRUCTURAL ALTERATION -- Any change in the supporting members of a building, such as beams, columns or girders.

STRUCTURE -- A combination of materials which form a construction that is safe and stable and includes, among other things, stadiums, platforms, radio towers, sheds, storage bins, billboards, display signs, fence(s), fence lines, rock wall(s), retaining wall(s), stairway(s), dikes, landscaping ties/ornamentals and/or appurtenances, tree(s), poles and container(s) and clothes drying lines.

SWIMMING POOL, PRIVATE -- Any constructed body of water or structure to contain water, and any accessory buildings or equipment pertaining thereto, used or intended to be used for swimming or bathing by any family or persons residing on the premises and their guests. It shall not be operated for gain and shall be located on a lot only as an accessory use to the dwelling thereon, to a membership club or to a motel or hotel.

SWIMMING POOL, PUBLIC -- Any constructed body of water or structure to contain water, and any accessory buildings or equipment pertaining thereto, which are operated for profit or gain and are used or intended to be used for swimming or bathing by persons who pay admission on a daily, weekly or other basis, including season tickets.

TENANT -- A person who is the temporary occupant and has the use of premises owned by another for the duration and term of the tenancy, which is usually but not necessarily fixed by lease.

TOPOGRAPHICAL ALTERATION -- Any change in the configuration of a surface area, including its relief, relative elevations and position of natural or man-made features, except those changes incidental to or normally part of agricultural operations or home gardening. In all cases, the removal of trees over eight inches in diameter measured three feet above the ground shall be considered a topographical alteration.

TOWN ATTORNEY -- The duly designated attorney or legal advisor of the Town of New Windsor.

TRAILER -- Any vehicle mounted on wheels, movable either by its own power or by being drawn by another vehicle, and equipped to be used for living or sleeping quarters or so as to permit cooking. The term "trailer" shall include vehicles if mounted on temporary or permanent foundations with the wheels removed.

USABLE OPEN SPACE -- An unenclosed portion of the ground of a lot which is not devoted to driveways or parking spaces, which is free of structures of any kind, of which not more than 25% is roofed for shelter purposes only, the minimum dimension of which is 40 feet, and which is available and accessible to all occupants of the buildings on said lot for purposes of active or passive outdoor recreation.

USE -- The specific purpose for which land or a building is used or a building is used or occupied or maintained.

YARD, FRONT -- An unoccupied ground area fully open to the sky between the street line, or the street line established by the Official Map of the Town or an approved subdivision plat, and a line drawn parallel thereto.

YARD LINE -- A line drawn parallel to a street or lot line at a distance there from equal to the representative yard dimension required by this chapter.

YARD, REAR -- An unoccupied ground area fully open to the sky between the rear lot line and a line drawn parallel thereto.

YARD, SIDE -- An unoccupied ground area fully open to the sky between any property line, other than a street or rear lot line, and a line drawn parallel thereto between the front and rear yards.

ARTICLE XVII: INTERPRETATION

§ 300-90 Interpretation and application.

In their interpretation and application, the provisions of this chapter shall be held to be the minimum standards adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Except where specifically provided to the contrary, it is not intended by this chapter to repeal, abrogate, annul or in any way to impair or interfere with any rules, regulations or permits previously adopted or issued or which shall be adopted or issued pursuant to law relating to the use of buildings, structures, shelter or premises, nor is it intended by this chapter to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided, however, that where this chapter imposes a greater restriction upon the use of a building or premises, or requires larger open spaces than are imposed or required by any other statute, local law, rule, regulation or permit, or by any easement or agreement, the provisions of this chapter shall control.

SECTION 5. SEVERABILITY

If any word, phrase, sentence, part, section, subsection, or

other portion of this Law or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed Application thereof, shall be severable, and the remaining provisions of this Law, and all applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full force and effect.

SECTION 6. CONFLICT WITH OTHER LAWS

Where this Law differs or conflicts with other Laws, rules and regulations, unless the right to do so is preempted or prohibited by the County, State or federal government, the more restrictive or protective of the Town and the public shall apply.

SECTION 7. EFFECTIVE DATE

This Law shall become effective upon filing with the New York State Secretary of State.

SECTION 8. AUTHORITY

This Local Law is enacted pursuant to the Municipal Home Rule Law. This Local Law shall supersede the provisions of Town Law to the extent it is inconsistent with the same, and to the extent permitted by the New York State Constitution, the Municipal Home Rule Law, or any other applicable statute.